



Village of Bemus Point

Zoning Law Update

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of State**

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ARTICLE 20. RESIDENTIAL DISTRICTS

§ 20.1 Districts Established

The residential districts of the Village of Bemus Point are listed in the following table. When this Zoning Law refers to residential or “R” zoning districts it is referring to one of the following:

DISTRICT NAME	ABBREVIATION
Low Density Residential	R-1
Traditional Village Residential	R-2
Mixed Residential	R-3

§ 20.2 Purpose Statements

- A. Low Density Residential (R-1).** The purpose of the R-1 District is to preserve and enhance the Village’s lowest density neighborhoods. R-1 District areas primarily consist of single-family detached homes along the lakefront and on the eastern side of Lakeside Drive; including larger historic estates and homes developed post-WWII, which are traditional in character. Future investment in the R-1 District should continue to contribute to the Village’s high-quality neighborhood environments and further establish well-connected, walkable streetscapes lined with sidewalks, streetlights, and street trees.
- B. Traditional Village Residential (R-2).** The R-2 District is established to preserve and enhance the Village’s traditional walkable neighborhoods that form the residential fabric surrounding the Village center. This district recognizes and supports the historic development pattern found along streets such as Merz Avenue, Elm Street, Liberty Street, and Maple Street, where modest-scale middle density housing may coexist harmoniously with single-family homes in a pedestrian-oriented setting. The purposes of this district are to:
- Maintain neighborhood character** by accommodating a compatible mix of housing types—including single-family homes, duplexes, triplexes, and fourplexes—that reflect the scale, form, and architectural traditions of Bemus Point’s established residential areas.
 - Support walkability** by preserving and encouraging development patterns that reinforce the village’s pedestrian infrastructure, including tree-lined streets, sidewalks, and connections to the village center and community amenities.
 - Preserve village ambiance** by ensuring that infill development maintains the intimate, neighborhood scale and green, landscaped character that defines the village’s residential streets.

- (4) **Encourage quality design** that respects the proportions, setbacks, orientation, and architectural details characteristic of the village's traditional residential building stock.
- (5) **Provide for a natural transition** between lower-density residential areas and the more intensive activities of the village center, supporting Bemus Point's vitality as a year-round community while respecting its historic small-village character.

C. Mixed Density Residential (R-3). The R-3 District is established to accommodate the broadest range of housing types and the highest residential densities within the Village, while maintaining the essential character and walkable nature of Bemus Point's traditional neighborhoods. This district provides for diverse housing options—from single-family attached and detached homes to two-family dwellings and multi-family apartment buildings—that can meet the evolving needs of current and future residents across all stages of life. The purposes of this district are to:

- (1) Maximize housing diversity and support resident growth and retention by permitting the full spectrum of residential building types—from single-family homes to apartment buildings—that accommodate a wide range of household compositions, lifestyle preferences, and economic circumstances, allowing residents to remain in the community as their needs change from young professionals to growing families to aging residents seeking to downsize.
- (2) Enable sustainable, efficient growth by concentrating higher-density residential development in areas supported by existing or planned infrastructure, services, and proximity to the village center, while encouraging compact development forms that make productive use of the Village's limited land area and optimize public investments in streets, utilities, and community facilities.
- (3) Extend traditional neighborhood character by ensuring that higher-density development incorporates the fundamental design principles of Bemus Point's established neighborhoods, including pedestrian-oriented building placement, human-scaled architecture, quality materials, integrated landscaping, and strong connections to the sidewalk and street network.
- (4) Foster community vitality while ensuring compatibility by creating neighborhoods with sufficient population density to support local businesses, community services, and social interaction, while requiring careful attention to building scale, massing, setbacks, architectural character, parking integration, and landscaping that create harmonious transitions with adjacent properties and preserve neighborhood livability.
- (5) Support environmental stewardship and walkability by encouraging development patterns that incorporate shared open spaces, reduce impervious surfaces through efficient site design, preserve mature trees, and promote pedestrian activity as an alternative to automobile dependence, providing flexibility to accommodate demographic and market changes

while reinforcing the community-oriented character that makes Bemus Point a distinctive and desirable place to live.

§ 20.3 Reviews Required

No building, structure, or lot shall hereafter be erected, altered, or demolished without obtaining the following approvals, as applicable:

- A. Site Plan Review.** Site plan review shall be required as provided for in Article XX of this Zoning Law. This shall include, but is not limited to, new construction, alteration, or demolition of structures.
- B. Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article XX of this Zoning Law.
- C. Local Waterfront Consistency Review.** All actions considered in the Local Waterfront Revitalization Overlay (LWRO) District shall also be subject to Local Waterfront Consistency Review as provided for by the Chautauqua Lake Local Waterfront Revitalization Program (LWRP) adopted by the Village of Bemus Point.
- D. Flood Damage Prevention Development Permit.** A floodplain development permit is required for all construction and other development to be undertaken in areas of special flood hazard, as provided for by the Flood Damage Prevention Overlay (FO) District.

§ 20.4 Permitted Uses

Uses permitted in residential districts shall be in accordance with Schedule A, the Permitted Use Table of the Village of Bemus Point.

§ 20.5 Bulk & Dimensional Requirements

RESIDENTIAL DISTRICTS

RESIDENTIAL DISTRICTS		R-1	R-2	R-3
MIN Lot Area		R-1	R-2	R-3
Single- or Two-Family Dwelling		16,000 sf / 20,000 sf ¹	7,500 sf	5,000 sf
Multi-Family Dwelling		-	2,500 sf / du ²	2,500 sf / du ²
Nonresidential Use		16,000 sf	10,000 sf	10,000 sf
MIN Lot Width		R-1	R-2	R-3
Single- or Two-Family Dwelling		120 ft / 140 ft ¹	50 ft	50 ft
Multi-Family Dwelling		-	60 ft	60 ft
Nonresidential Use		-	65 ft	65 ft
MIN Front Yard ³		R-1	R-2	R-3
		50 ft	15 ft	20 ft
MIN Side Yard		R-1	R-2	R-3
Primary Use or Structure		20 ft	10 ft	10 ft
Nonresidential Use, abutting residential		20 ft	15 ft	15 ft
Accessory Use or Structure		10 ft	5 ft	5 ft
MIN Rear Yard		R-1	R-2	R-3
Primary Use or Structure		40 ft	30 ft	30 ft
Accessory Use or Structure		10 ft	5 ft	5 ft
MAX Building Height ⁴		R-1	R-2	R-3
Primary Use or Structure		35 ft 2.5 stories	35 ft 2.5 stories	40 ft 3 stories
Accessory Use or Structure		20 ft ⁵ 1.5 stories	20 ft ⁵ 1.5 stories	20 ft ⁵ 1.5 stories
MAX Lot Coverage (gross impervious surface)		R-1	R-2	R-3
Single- or Two-Family Dwelling		35% / 30% ¹	40%	40%
Multi-Family Dwelling		-	45%	45%
Nonresidential Use		30% / 25% ¹	35%	35%

NOTES:

1. The larger shall apply to lots without sewer access.
2. The notation "sf / du" indicates square feet per dwelling unit.
3. The front yard area shall be measured from the edge of the roadway.
4. Building height shall be measured in feet, while the visual scale or appearance in height of the building shall be determined in stories.
5. No accessory use or structure may exceed the height of the primary use or structure on the lot.

ARTICLE 21. MIXED USE DISTRICTS

§ 21.1 Districts Established

The mixed use districts of the Village of Bemus Point are listed in the following table. When this Zoning Law refers to mixed use or “MU” zoning districts it is referring to one of the following:

DISTRICT NAME	ABBREVIATION
Mixed Use – Village Center	MU-VC
Mixed Use – Gateway	MU-G

§ 21.2 Purpose Statements

A. Mixed Use – Village Center (MU-VC). The MU-VC District is established to preserve, enhance, and revitalize the Village's historic core, encompassing the traditional Main Street commercial corridor and the distinctive lakefront mixed-use area that together serve as the social, economic, and cultural heart of Bemus Point. This district recognizes the traditional role of the Village Center as a year-round gathering place for residents and a welcoming destination for visitors, while adapting to serve current residents and future generations, ensuring that Bemus Point remains a distinctive and economically healthy community anchored by its cherished Main Street and dynamic lakefront. Furthermore, the purpose of this district is to:

- (1) Preserve and celebrate historic Main Street character by protecting traditional building patterns, architectural features, storefront designs, and intimate scale while enhancing the public realm with streetscape improvements, wayfinding, outdoor gathering areas, and amenities that reinforce Bemus Point's unique identity and sense of place.
- (2) Support a vibrant mix of complementary uses by facilitating the integration of retail shops, restaurants, services, professional offices, civic and cultural facilities, and residential uses—particularly in upper stories—that create an active, multi-purpose district serving year-round residents, summer visitors, and the broader Chautauqua County community.
- (3) Strengthen the lakefront connection and pedestrian vitality by ensuring that development along the shoreline enhances public access, views, and enjoyment of Chautauqua Lake while requiring building placement and site design throughout the district that prioritize walkability, activate sidewalks and public spaces, and foster social interaction.
- (4) Integrate residential uses and promote economic sustainability by welcoming apartments and live-work spaces that increase activity, support local businesses, and enhance housing diversity, while providing regulatory flexibility that allows businesses to adapt to market conditions, supports

entrepreneurship, and encourages building reuse and a stable, diversified economic base.

- (5) Ensure compatible transitions and quality development by designing district edges that create harmonious relationships with adjacent residential neighborhoods through sensitive building scale, massing, setbacks, and buffering that maintain the Village Center's role as an accessible, comfortable environment for people of all ages and abilities.

B. Mixed Use – Gateway (MU-G). The MU-G District is established to guide the transformation and redevelopment of the southeastern portion of Main Street, from Sunnyside Avenue to Lloyd Avenue at the Village border, creating a welcoming entry corridor that announces arrival in Bemus Point while supporting the community's long-term economic vitality and residential growth. The purposes of this district are to:

- (1) Create a positive gateway identity by encouraging high-quality mixed-use development that establishes an attractive entry into the Village with contemporary architecture, landscaping, and site design that signals arrival in a distinctive lakeside community while allowing for larger-scale buildings and modern development forms suited to opportunity sites along this corridor.
- (2) Enable strategic investment and diverse uses by providing regulatory flexibility for underutilized properties to accommodate a broad mix of retail, dining, lodging, professional services, entertainment, civic facilities, and residential uses that can serve evolving market opportunities, attract year-round residents and visitors, and strengthen the Village's economic resilience.
- (3) Balance tradition with innovation by extending the fundamental principles of the Village Center's traditional Main Street character—including pedestrian orientation, active ground floors, and quality materials—while accommodating contemporary architectural expression, increased building heights and footprints, and site configurations appropriate for gateway redevelopment.
- (4) Support connectivity and accessibility by requiring site designs that prioritize safe pedestrian and bicycle connections to the Village Center, residential neighborhoods, and lakefront amenities, while efficiently managing vehicular access and parking to serve both residents and visitors.
- (5) Ensure compatible, quality development by establishing design standards that create appropriate transitions to adjacent residential neighborhoods, promote attractive streetscapes, integrate parking and service areas sensitively, and ensure that new investment contributes positively to community character and quality of life.

§ 21.3 Reviews Required

No building, structure, or lot shall hereafter be erected, altered, or demolished without obtaining the following approvals, as applicable:

- A. Site Plan Review.** Site plan review shall be required as provided for in Article XX of this Zoning Law. This shall include, but is not limited to, new construction, alteration, or demolition of structures.
- B. Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article XX of this Zoning Law.
- C. Local Waterfront Consistency Review.** All actions considered in the Local Waterfront Revitalization Overlay (LWRO) District shall also be subject to Local Waterfront Consistency Review as provided for by the Chautauqua Lake Local Waterfront Revitalization Program (LWRP) adopted by the Village of Bemus Point.
- D. Flood Damage Prevention Development Permit.** A floodplain development permit is required for all construction and other development to be undertaken in areas of special flood hazard, as provided for by the Flood Damage Prevention Overlay (FO) District.

§ 21.4 Permitted Uses

Uses permitted in mixed use districts shall be in accordance with Schedule A, the Permitted Use Table of the Village of Bemus Point.

§ 21.5 Bulk & Dimensional Requirements

BUSINESS DISTRICTS		MU-VC	MU-G
MIN Lot Area		MU-VC	MU-G
Residential Use		2,500 sf / du ¹	3,000 sf / du ¹
Nonresidential Use		8,000 sf	10,000 sf
MIN Lot Width		MU-VC	MU-G
Residential Use		35 ft	45 ft
Nonresidential Use		40 ft	50 ft
Front Yard ²		MU-VC	MU-G
MINIMUM		0 ft	25 ft
MINIMUM, where fronting Lakeside Drive		15 ft	-
MAXIMUM, nonresidential only		30 ft	40 ft
MIN Side Yard		MU-VC	MU-G
Primary Use or Structure		0 ft / 10 ft ³	15 ft
Accessory Use or Structure		5 ft	5 ft
MIN Rear Yard		MU-VC	MU-G
Primary Use or Structure		25 ft	40 ft
Accessory Use or Structure		5 ft	5 ft
Building Height ⁴		MU-VC	MU-G
MAXIMUM		36 ft (3 stories)	40 ft (3 stories)
MINIMUM, nonresidential only		-	30 ft (2 stories)
MAXIMUM, Accessory Use or Structure		20 ft (1.5 stories)	20 ft (1.5 stories)
MAX Building Footprint		MU-VC	MU-G
Nonresidential Use, new construction		8,000 sf	15,000 sf
MAX Lot Coverage (gross impervious surface)		MU-VC	MU-G
Residential Use		60%	65%
Nonresidential Use		100%	85%

NOTES:

1. The notation "sf / du" indicates square feet per dwelling unit.
2. The front yard area shall be measured from the edge of the roadway.
3. The larger shall apply where a nonresidential property abuts a residential use or district.
4. Building height shall be measured in feet, while the visual scale or appearance in height of the building shall be determined in stories.

ARTICLE 22. PARKS & COMMUNITY FACILITIES (P) DISTRICT

§ 22.1 Purpose & Intent

- A. Purpose.** The Parks and Community Facilities (P) District is established to protect and enhance the Village's network of public and semi-public lands dedicated to recreational, educational, civic, and institutional purposes that serve the health, welfare, and quality of life of residents and visitors. This district recognizes the essential role that parks, open spaces, and community facilities play in providing gathering places, services, and amenities that strengthen community bonds.
- B. Intent.** It is further the intent of this district to:
- (1) Preserve and enhance recreational opportunities by protecting land for both passive recreation—such as parks, trails, natural areas, waterfront access, and open spaces—and active recreation including playgrounds, sports facilities, and programmed activity areas that serve residents of all ages and abilities throughout the year.
 - (2) Support community services and institutional uses by accommodating essential public and semi-public facilities such as schools, libraries, municipal buildings, places of worship, community centers, cultural facilities, and other civic institutions that provide vital services and anchor neighborhood identity.
 - (3) Promote low-impact development patterns by requiring buildings, parking areas, and site improvements within this district be designed and located to minimize environmental impacts, preserve natural features and vegetation, maintain the open and green character of these properties, and integrate sensitively with surrounding neighborhoods.
 - (4) Enhance public access and connectivity by ensuring that parks and community facilities are accessible via sidewalks, trails, and other pedestrian and bicycle routes, creating linkages between neighborhoods, the village center, the lakefront, and other community destinations that reinforce Bemus Point's walkable character.
 - (5) Protect environmental quality and community character by maintaining substantial open space, preserving mature trees and natural landscapes, managing stormwater through green infrastructure, and ensuring that the scale, design, and siting of buildings and improvements respect the Village's intimate scale and residential setting while serving their intended community purposes.

§ 22.2 Reviews Required

No building, structure, or lot shall hereafter be erected, altered, or demolished without obtaining the following approvals, as applicable:

- A. Site Plan Review.** Site plan review shall be required as provided for in Article XX of this Zoning Law. This shall include, but is not limited to, new construction, alteration, or demolition of structures.
- B. Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article XX of this Zoning Law.
- C. Local Waterfront Consistency Review.** All actions considered in the Local Waterfront Revitalization Overlay (LWRO) District shall also be subject to Local Waterfront Consistency Review as provided for by the Chautauqua Lake Local Waterfront Revitalization Program (LWRP) adopted by the Village of Bemus Point.
- D. Flood Damage Prevention Development Permit.** A floodplain development permit is required for all construction and other development to be undertaken in areas of special flood hazard, as provided for by the Flood Damage Prevention Overlay (FO) District.

§ 22.3 Permitted Uses

Uses permitted in the P District shall be in accordance with Schedule A, the Permitted Use Table of the Village of Bemus Point.

§ 22.4 Bulk & Dimensional Requirements

		P
MIN Lot Area		P
		-
MIN Lot Width		P
		-
MIN Front Yard		P
		30 ft
MIN Side Yard		P
	Primary Use or Structure	15 ft
	Accessory Use or Structure	10 ft
MIN Rear Yard		P
	Primary Use or Structure	20 ft
	Accessory Use or Structure	10 ft
MAX Building Height		P

Primary Use or Structure	35 ft (2.5 stories)
Accessory Use or Structure	20 ft (1.5 stories)
MAX Lot Coverage (gross impervious surface)	
	P
	30%

ARTICLE 23. LOCAL WATERFRONT REVITALIZATION OVERLAY (LWRO) DISTRICT

§ 23.1 Purpose & Intent

- A. Purpose.** Chautauqua Lake is a sensitive and finite natural resource that warrants special land use regulations to protect water quality, ecological integrity, scenic character, and the safety of those who live on and recreate upon the lake. Recognizing this, the Village of Bemus Point has established the LWRO District to implement the policies and objectives of the Chautauqua Lake Local Waterfront Revitalization Program (LWRP) and the recommendations of the Chautauqua Lake Watershed Management Plan. The purpose of this district is to ensure that development and activities within the waterfront area are planned and regulated in a manner that protects, enhances, and appropriately utilizes the Village's most valuable and vulnerable natural resource.
- B. Intent.** It is further the intent of the LWRO District to achieve the following objectives:
- (1) Identify properties subject to waterfront consistency review under the Chautauqua Lake LWRP by clearly delineating the geographic extent of the LWRP Waterfront Revitalization Area (WRA) on the Village of Bemus Point Zoning Map.
 - (2) Minimize shoreline disturbance and nutrient and sediment runoff, maintaining a vegetated shoreline edge and nearshore habitat.
 - (3) Reduce hazards to navigation and public safety.
 - (4) Preserve scenic views of and across the lake.
 - (5) Protect upland access to the lakefront.
 - (6) Ensure coordinated planning and regulatory compliance by providing a framework for inter-agency review and coordination with state and federal waterfront management programs, while maintaining local control over land use decisions that affect the Village's lakefront character, economic vitality, and environmental sustainability.
 - (7) Balance the rights of lakefront property owners with the shared interest in local resiliency to severe weather and in maintaining the beauty, health, and accessibility of Chautauqua Lake for current and future generations.

§ 23.2 Applicability

- A. WRA Boundary.** The requirements of the LWRO District shall apply to all parcels located along or adjacent to Chautauqua Lake and located within the Chautauqua Lake LWRP Waterfront Revitalization Area (WRA) located within the Village of Bemus Point.

- B. Lakefront Checklist.** Before issuing any permit, certificate of occupancy, or site plan approval, the Zoning Officer shall require the applicant to complete and sign a Lakefront Checklist certifying compliance with this section and to submit any required state or federal permit or exemption statement.
- C. Waterfront Consistency Review Required.** All land use and development actions in the LWRO District shall be subject to the required Local Waterfront Consistency Review as required by Waterfront Consistency Review Law of the Chautauqua Lake LWRP.
- D. Relationship to Local, State, County, or Federal Regulations.**
 - (1) In case of conflict with other local, state, county, or federal regulations, the provision most protective of Chautauqua Lake shall apply.
 - (2) Nothing in this section authorizes any activity that requires, and has not obtained, a permit or approval from another regulatory body or agency.
 - (3) Where an activity regulated by this section also requires a state or federal permit, the property owner shall submit a copy of each such permit, or a written statement that the activity qualifies for an exemption, before the Village issues a permit, certificate, or approval.

§ 23.3 Use, Dimensional, and Bulk Regulations

- A. Underlying Districts.** All use, dimensional, and bulk regulations of the underlying zoning districts shall apply, except as provided below and where otherwise noted by this Article.
- B. Setbacks.** No principal structure shall be located within 50 feet of the shoreline.
- C. Minimum Lake Frontage.** No lot subject to this section shall be created with lake frontage of less than 50 feet, measured at the Mean High Water Mark (MHW).
- D. Lot Coverage.** Total impervious coverage on a parcel shall not exceed 15% of the parcel area lying within 50 feet of the shoreline.

§ 23.4 Accessory Structures

- A.** Accessory structures may be allowed by-right when set back 50 feet or more from the shoreline.
- B.** Accessory structures within 50 feet of the shoreline may be allowed by special use permit. Additional consideration shall be given to:
 - (1) The visibility of the structure from adjacent properties and its impact to property access.
 - (2) The overall size of the structure. A maximum gross floor area of 150 square feet is recommended.

- (3) Proper anchoring of the structure to prevent movement due to wind, high water, or ice.
 - (4) The height of the structure relative to the MHW. No structure shall extend beyond the MHW, except for permitted docks and boathouses in accordance with this Article.
 - (5) Other reasonable conditions deemed necessary and appropriate by the reviewing body to mitigate potential risks to life, property, and resident use and enjoyment of the lakefront.
- C.** No new or replacement accessory structure shall be permitted within 25 feet of the shoreline, in accordance with the recommendations of the Chautauqua Lake Watershed Management Plan.

§ 23.5 Docks and Docking Facilities

- A.** All docks and docking facilities shall comply with the requirements of this Article and the standards of the NYSDEC (6 NYCRR Part 608), which the Village adopts by reference.
- B.** No separate local dock permit shall be required.
- C.** Commercial or rental docking shall be permitted only in a district where such use is allowed per the district use table of this Zoning Law.
- D.** Residential Docking Facilities.
- (1) Docking facilities that are accessory to a principal dwelling on the lakefront lot from which it extends shall serve only that lot.
 - (2) Lake access, dockage, or boat storage for any lot, dwelling, or party other than the owner or occupants of the lakefront lot on which it is located may be granted seasonally at the owner's discretion, provided said docking facility complies with all other requirements and restrictions of this Section. For profit rental of residential docking facilities shall be prohibited.
 - (3) Storage of boats and trailers in the off-season (November 1 to April 30) shall be limited to the owner or occupants of the lakefront lot, except for persons holding a permanent legal right-of-way record over that lot.
 - (4) A docking facility shall accommodate no more than five (5) boats and shall not exceed 4,000 square feet within its perimeter, consistent with the threshold at or below which no NYSDEC Protection of Waters permit is required.
 - (5) No more than one docking facility shall be permitted per 50 feet of lake frontage on any lot subject to this section, measured at the MHW. A shared or common dock serving a subdivision, planned development, or homeowners' association shall be permitted only by special use permit and shall comply with the size, use, and density limits of this section.

- (6) No portion of a docking facility shall extend into the minimum side yard setback area. The side yard setback shall be measured from the side lot line extended lakeward.
- (7) No dock, boathouse, or shoreline structure shall contain enclosed or habitable space, sleeping quarters, plumbing, or a roof deck.

§ 23.6 Lakeward Fences

- A.** Any fence established within 50 feet of the shoreline shall require a special use permit in accordance with **Article XX**.
- B.** Lakeward of the principal building, fences and walls shall not exceed four (4) feet in height and shall be at least 50% open. Solid fencing and solid walls are prohibited lakeward of the principal building.
- C.** No fence shall be placed within the shoreline buffer except a permitted stairway or walkway, and no fence shall extend lakeward of the MHWL.
- D.** In reviewing a special use permit the reviewing body shall consider:
 - (1) The visibility of the fence from adjacent properties and its impact to property access.
 - (2) The height of the fence.
 - (3) The type of fence and its opacity.
 - (4) Other reasonable conditions deemed necessary and appropriate by the reviewing body to mitigate potential risks to life, property, and resident use and enjoyment of the lakefront.

§ 23.7 Lake-Facing Signs

- A.** For the purposes of this section, lake-facing shall mean having a face or facade oriented, positioned, or directed toward Chautauqua Lake.
- B.** Lake-facing signs permitted by this Section shall not count toward the maximum number of sign types per use or lot as provided for by Article 35. All other sign regulations of Article 35 shall still apply.
- C.** In underlying residential districts, one (1) non-illuminated lake-facing sign per property is permitted subject to the size restrictions below:
 - a. Wall Sign – Maximum four (4) square feet in area.
 - b. Freestanding Sign – Maximum four (4) square feet in area; three (3) feet in height.
- D.** In underlying nonresidential districts, one (1) lake-facing sign per establishment is permitted subject to the size restrictions below:

- a. Wall Sign – Maximum 12 square feet in area.
 - b. Freestanding Sign – Maximum 12 square feet in area; six (6) feet in height.
- E. Navigational, safety, regulatory, and governmental informational signs are exempt.

§ 23.8 **Parking**

- A. Parking for all uses, except single-family dwellings, shall require a special use permit.
- B. No parking space, parking area, driveway, or vehicle maneuvering area shall be located between the principal building and the shoreline, or within 50 feet of the shoreline, whichever is more restrictive. An existing lawful driveway serving a single- or two-family dwelling may be maintained but not expanded lakeward.
- C. A parking area of five (5) or more spaces serving a nonresidential use may be located landward of the principal building, screened from the lake by a landscaped strip at least six (6) feet wide, and shall not discharge untreated runoff toward the lake.

§ 23.9 **Shoreline Stabilization, Buffers, & Vegetation**

- A. **Breakwalls and Shoreline Stabilization.** Any modification of the shoreline shall be in accordance with NYSDEC regulations and Chautauqua Lake Watershed Management Plan best management practices. Vegetative and bioengineered stabilization methods are preferred over hardened structures where site conditions allow.
- B. **Shoreline Buffer and Vegetation.** A vegetated shoreline buffer not less than 25 feet in width, measured landward from the MHWM, shall be established and maintained on every parcel subject to this section, consistent with the Chautauqua Lake Watershed Management Plan.
- (1) Existing lawn within the buffer as of the effective date of this section may remain but shall not be expanded.
 - (2) Property owners are encouraged to obtain a free Yard Smarts consultation with the Chautauqua Lake Conservancy before undertaking shoreline landscaping.
 - (3) One water access corridor per parcel, not exceeding 15 feet in width, may be cleared and maintained for pedestrian access to and views of the lake.
 - (4) Outside the water access corridor, removal of trees six (6) inches or greater in diameter at breast height, or of shrub cover within the buffer, shall require a permit, except for the removal of dead or hazardous trees or of invasive species.
 - (5) Where a permit under this Zoning Law authorizes disturbance within the buffer, disturbed areas shall be restored with native, non-invasive vegetation. A planting plan consistent with the Chautauqua Watershed

Conservancy “Yard Smarts: Native Plants, Healthy Waters” program shall satisfy this requirement.

- (6) No fertilizer shall be applied within the shoreline buffer. (State law restricts phosphorus lawn fertilizer, prohibits fertilizer application between December 1 and April 1, and restricts application within 20 feet of surface water under ECL Article 17, Title 21.)
- (7) Restoration of an unlawfully cleared shoreline buffer, at the owner’s expense and to a planting plan approved by the Zoning Officer, may be ordered as a condition of resolving a violation.

§ 23.10 Stormwater & Erosion Control

- A.** Any activity in the LWRO District that disturbs more than 5,000 square feet of land or creates more than 1,000 square feet of new impervious surface shall manage stormwater on site so that post-development peak rate and volume do not exceed pre-development conditions, using the New York State Stormwater Management Design Manual as the technical standard.
- B.** Erosion and sediment control shall follow the New York Standards and Specifications for Erosion and Sediment Control.
- C.** No new pipe, drain, or channel shall discharge stormwater directly to the lake without dispersion or treatment.

§ 23.11 View Corridors & Scenic Protection

- A.** The purpose of the following requirements is to implement LWRP Policy 3, protecting public and shared views of Chautauqua Lake.
- B.** Each public street end, right-of-way, and public park frontage abutting the lake is designated a public view corridor, consisting of the full width of the right-of-way or public parcel extending to the MHWM. No building, fence, wall, sign, boat or trailer storage, or other structure shall be placed within a public view corridor, except public improvements authorized by the Village Board.
- C.** On any parcel subject to this section, the cumulative width of all structures lakeward of the principal building, measured as their projection onto a line parallel to the MHWM, shall not exceed 60% of the parcel’s lake frontage. Docks, stairs, and walkways are excluded from this calculation.
- D.** No new structure located within 50 feet of the MHWM shall exceed 15 feet in height, or the maximum building height of the underlying district, whichever is less.
- E.** For applications subject to site plan review, the reviewing body shall consider whether the proposal would block or narrow an existing view of the lake from a public street, park,

sidewalk, or view corridor, and may condition approval on adjustments to building placement, height, massing, or landscaping to preserve such views.

§ 23.12 Upland Access & Funneling

- A. Findings.** The Village provides several public access points to Chautauqua Lake for the use of residents and visitors, and the shoreline is otherwise held in private ownership. The purpose of this section is to prevent the concentration of lake access, dockage, and watercraft storage from multiple non-lakefront properties onto a single privately owned lakefront lot, which intensifies shoreline use beyond that of a single lakefront residence, burdens adjoining owners and navigation, and dilutes the value of privately held lakefront property.
- B. Definition.** “Funneling” means the provision of lake access, dockage, mooring, boat or watercraft storage, or lakefront recreational use across or from a lakefront lot, by deed, easement, right-of-way, license, lease, membership, association, or any other arrangement, to any person other than the owner and occupants of that lakefront lot. This shall exclude seasonal agreements or permissions granted by an owner at their discretion, in accordance with §23.5.
- C. Prohibition.** No lakefront lot in a residential district shall be used for funneling. Lake access, dockage, and mooring rights are appurtenant to lakefront ownership and shall not be extended to non-lakefront lots, dwelling units, or membership organizations, except as provided in Subsections D and E below.
- D. Existing Rights of Record.** A right of access of record that lawfully existed on the effective date of the LWRO District may continue at the level of use existing on that date. No such right shall be enlarged, extended to additional lots or dwelling units, or intensified by the addition of docks, boat lifts, moorings, or watercraft beyond the level lawfully existing on that date. The Zoning Officer may require an applicant claiming such a right to submit the recorded instrument creating it and evidence of the level of use existing on the effective date.
- E. Common Waterfront Parcels.** A subdivision, planned development, or homeowners’ association may provide shared lake access to its members only through a waterfront parcel held in common ownership and dedicated to that purpose, and only by special use permit. Any docking facility serving a common waterfront parcel shall comply with §23.5 and shall not be rented, leased, or made available to persons who are not members of the association.
- F. Certification.** At the time of application for any permit, certificate of occupancy, or approval affecting a lakefront lot, the applicant shall certify whether any right of lake access across the lot has been granted to any other party and, if so, shall identify the recorded instrument. A false certification is a violation of this Zoning Law.

ARTICLE 24. FLOOD DAMAGE PREVENTION OVERLAY (FO) DISTRICT

NOTE: Intended to be established with an updated Flood Damage Prevention Local Law consistent with current National Flood Insurance Program (NFIP) participation standards. Existing Flood Damage Prevention regulations are established via Village of Bemus Point Local Law #1 of 1987.

§ 24.1 Purpose & Intent

- A. Purpose.** The Village of Bemus Point recognizes that the potential and/or actual damages from flooding and erosion may cause physical, financial, and environmental harm to property owners. Such damage may include, but is not limited to; destruction or loss of private and public housing, damage to public facilities, and injury to or loss of human life. The Flood Damage Prevention Overlay (FO) District is hereby established to minimize the threat of such damage by aligning this Zoning Law with the purposes and objectives of the Village of Bemus Point Flood Damage Prevention Local Law #XX of XXXX and supporting the administration thereof.
- B. Intent.** It is further the intent of this Article to ensure all applicants and property owners are aware of the Special Flood Hazard Areas and activities regulated by the Village of Bemus Point Flood Damage Prevention Local Law, and the additional development review procedures and/or permit requirements contained therein.

§ 24.2 Applicability

- A. District Boundaries.** The FO District shall be comprised of all Special Flood Hazard Areas in the Village of Bemus Point as identified by the most recent Flood Insurance Rate Maps created and maintained by the Federal Emergency Management Agency.
- B. Use, Dimensional, and Bulk Requirements.** All use, dimensional, and bulk requirements of the underlying zoning districts shall apply, except where otherwise provided by the Village of Bemus Point Flood Damage Prevention Local Law.
- C. Relationship to Local, State, County, or Federal Regulations.** In case of conflict with other local, state, county, or federal regulations, the more restrictive shall apply.

§ 24.3 Special Requirements

Refer to the Village of Bemus Point Flood Damage Prevention Local Law #XX of XXXX for all restrictions, regulations, and permit requirements applicable to uses and properties in the FO District, in addition to those contained in this Zoning Law.

ARTICLE 25. ADDITIONAL USE REGULATIONS

§ 25.1 Purpose & Intent

- A. This Article is established to provide clear, consistent, and context-sensitive standards for specific land uses that, by their nature, may require tailored controls beyond those applied within base zoning districts. These regulations are intended to ensure that such uses are designed, located, and operated in a manner that is compatible with surrounding development and reflective of the Village’s desired character.
- B. These provisions support the goals and policies of the Village of Bemus Point’s Strategic Plan by accommodating a diverse range of uses while minimizing potential adverse impacts on neighboring properties, infrastructure, and natural resources. Through the application of targeted performance standards (such as those related to site layout, building design, intensity, operations, and buffering) these regulations promote high-quality development, protect public health and safety, and support orderly, sustainable, and predictable growth.
- C. It is further the intent of these regulations to provide transparency and flexibility by clearly outlining expectations for applicants and decision-makers, enabling context-appropriate investment while maintaining consistency with Village planning objectives and other applicable local, state, and regional laws, rules, and regulations.

§ 25.2 Applicability

- A. The following requirements are applicable to all uses, Permitted (P) and Specially Permitted (SP), as noted in the Permitted Use Table of the Village Zoning Law.
- B. Specially permitted uses must obtain a special use permit and site plan review in accordance with Articles XX and XX.
- C. Permitted uses do not require a special use permit. However, uses permitted by-right must conform to the requirements of this Article, where applicable, and obtain site plan review approval in accordance with Article XX.
- D. Should the additional use regulations of this Article conflict with other requirements of this Zoning Law, the regulations contained herein shall take precedence.

§ 25.3 Accessory Uses & Structures

- A. **Purpose & Intent.** The purpose of these regulations is to ensure that accessory uses and structures remain clearly subordinate to and compatible with the principal use on a lot, preserving the character and scale of the Village's neighborhoods, lakefront, Main Street, and activity centers. These provisions are intended to prevent accessory structures from functioning as independent principal uses, overwhelming lot coverage, or creating adverse impacts on neighboring properties with respect to light, air, privacy, and visual

character. Through these regulations, the Village of Bemus Point seeks to balance the reasonable needs of property owners for functional support structures and uses with the broader community interest in maintaining orderly and harmonious land use patterns.

B. Applicability. Accessory uses and structures are allowed in any zoning district in connection with any principal use lawfully existing within such district as noted in Articles 20, 21, and 22 of this Zoning law.

C. General Requirements.

- (1) Accessory uses and structures shall be clearly incidental and subordinate to the purpose, height, area, and extent of the primary use or structure.
- (2) Accessory structures under 150 square feet shall be permitted in all districts by-right. Those exceeding 150 square feet shall be subject to site plan review and approval.
- (3) All accessory uses and structures shall conform to the bulk and dimensional requirements of the district in which they are located. Projection and lot coverage allowances of certain accessory structures may be found in §26.4 (Yards, Courts, and Open Spaces).
- (4) The total gross ground floor area of all accessory and primary structures on the lot shall not exceed the maximum lot coverage of the district in which it is located.
- (5) No more than two (2) accessory structures may be permitted on a single lot.
- (6) Accessory structures must be finished with materials and/or finishes that are consistent and compatible with the existing character of the principal structure and surrounding neighborhood.

D. Location Requirements.

- (1) No accessory structure or use may be erected in any required front yard area, unless otherwise permitted by this Zoning Law.
- (2) No accessory structure or use may obstruct, block, or force the enclosure of any structural opening (windows, doors, etc.), porch, deck, or other designated area intended for use and access by persons or vehicles.
- (3) Vacant Lots. An accessory structure may be placed on a vacant lot if it meets appropriate yard requirements and if it is within 200 feet, building edge to building edge, from the primary use or structure it is intended to serve.

E. Lakefront Lot Requirements. See Article 23, LWRO District.

F. Residential Accessory Uses and Structures. The following shall be considered permissible residential accessory uses or structures:

- (1) Enclosed storage structures, including carports and garages. The floor area of a garage or carport shall not exceed 30% of the primary structure or 1,000 square feet, whichever is less.
- (2) Decks, patios, porches, or terraces.
- (3) Fences and walls in accordance with Subsection H, below.
- (4) In-ground and above ground pools and any attached decks, in accordance with Subsection I, below.
- (5) Noncommercial nurseries, gardens, or greenhouses.
- (6) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
- (7) Personal or home electric vehicle charging stations.
- (8) Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements. Ground mounted solar panels are not permitted.
- (9) Radio and television antennas.
- (10) Other uses and structures which the Zoning Officer deems appropriate by virtue of similarity in nature, activity, and/or extent to those already listed.

G. Nonresidential Accessory Uses and Structures. The following shall be considered permissible nonresidential accessory uses or structures:

- (1) Enclosed storage structures, such as sheds.
- (2) Decks, patios, porches, and terraces. Outdoor cafes shall be in conformance with §23.13.
- (3) Detached garages, when located behind the front building line of the primary structure.
- (4) Fences and walls in accordance with Subsection H, below.
- (5) Fire escapes or other such structures intended to maintain the health, safety, and welfare of residents within the dwelling and the general public.
- (6) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
- (7) Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements. Ground mounted solar panels are not permitted.
- (8) Walkup service windows when accessory to a permitted retail sales and service use. Site plan review shall be required to address pedestrian safety, access, and connectivity.

- (9) Off-street parking and loading areas, including electric vehicle charging stations.
- (10) Other uses and structures which the Zoning Officer deems appropriate by virtue of similarity in nature, activity, and/or extent to those already listed.

H. Fences and Walls.

- (1) Exempt Fencing. Fencing located more than 25 feet from any property line shall be exempt from these requirements.
- (2) Lakeshore Fencing. See Article 23, LWRO District.
- (3) Height. Fences shall not exceed four (4) feet in height. This shall include living fences, such as vegetative buffers and hedges, located within 10 feet of the property line.
- (4) Setback from Road. Fences shall be set back at least two (2) feet from the front property line and shall not be located within public rights-of-way.
- (5) Proximity to Neighboring Properties. All fences, walls, and/or hedges shall be located no closer than two (2) feet from adjacent property lines. This rule can be waived if agreed to in writing by adjacent property owners.
- (6) Design and Construction.
 - a. Any fence which shall be considered a fire hazard due to location or material composition shall not be allowed.
 - b. Barbed wire fencing and chain link fencing are prohibited.
 - c. The finished sides of all fences must face adjacent properties. This rule may be waived if agreed to in writing by property owners adjacent to the proposed fence.
 - d. Fences located in a front or side yard area shall be at least 50% opaque.
- (7) Maintenance. All fences shall be maintained structurally and visually.
- (8) Preexisting Fences. Fences in existence at the time of enactment of this Zoning Law shall only be subject to Subsection 7 above. However, the removal and replacement of preexisting nonconforming fences shall be prohibited. Replacement fences shall conform to the requirements of this Section. This does not prohibit the ordinary repair and upkeep of nonconforming fences.

I. Private Swimming Pools, Residential. A private swimming pool accessory to a residential use shall meet the following requirements:

- (1) Fence. Any such pool which is installed shall be completely enclosed by a security fence not less than four (4) feet in height, and for all pools there shall be gates or doors equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates or doors securely

closed at all times when not in actual use. Refer to fence section for fences over four (4) feet in height.

- (2) Filtration System-Noise. Pools which are equipped with an integral filtration system and filter pumps or other mechanical devices shall be so located and constructed as not to interfere with the peace, comfort, and repose of the occupant of any adjoining property.
- (3) Maintenance. Both inground and aboveground pools, accessory buildings, fences, etc., shall be properly maintained.
- (4) Drainage. The Zoning Officer shall determine whether provisions for the drainage of such pools are adequate and will not interfere with the existing sanitary facility, neighboring properties, etc.
- (5) Area Requirements. Pool shall be installed in accordance with the area requirements of the appropriate district.

§ 25.4 Temporary Uses & Structures

A. Temporary Dwelling Units (Mobile).

- (1) Inhabitation Time. Temporary dwelling units (travel trailers motor homes, etc.) may be inhabited on a temporary basis two (2) weeks per 3-month period. No permit or fee is required unless the number of inhabitation days desired is greater than that. specified, in which case a special use permit must be requested.
- (2) Conditions.
 - a. To be inhabited, the temporary dwelling units must be located on a lot which contains an inhabited principal dwelling unit.
 - b. Area requirements (e.g., side yard requirements) shall be met.
 - c. It is intended that temporary dwelling units be generally inhabited by visitors/guests and not by residents of the principal dwelling unit.
 - d. Temporary units shall not be connected to permanent sewage/water facilities.
 - e. Temporary units may not be utilized in such a manner so as to cause a nuisance.

B. Household Sales. In order to preserve the character of neighborhoods, household and other similar types of noncommercial sales (e.g. lawn sales, garage sales, estate sales) shall be subject to the following:

- (1) Frequency. Sales shall be limited to three (3) weekends of three (3) days each per year per property owner. More sales than this maximum shall require a special use permit or a Variance where such sales are not allowed.
- (2) Signs. Temporary signage may be permitted in accordance with Article 35.

- (3) Permits. Household sales shall not be subject to permit requirements or fees.

C. Trash Storage in Private Yards. To promote a safe, healthy environment, the following shall apply to the temporary storage of trash:

- (1) Quantity. Trash may be temporarily stored or collected, if it does not exceed 100 square feet of area. Trash must be contained within an enclosed structure or receptacle with lid. The use of dumpsters to store household trash is prohibited. Dumpsters necessary for active on-site construction projects may be permitted, but must be removed within seven (7) days of project completion.
- (2) Location. Trash must be stored in one contiguous location. Trash and trash receptacles shall be stored in an enclosed structure or the side or rear yard. Receptacles may be brought to the front yard for trash pickup services no more than 24 hours before and should be returned the day of pickup.
- (3) Buffer. Trash storage shall not be visible from adjacent properties and public rights-of-way. Where necessary, trash storage shall be screened with landscaping, fencing, or a combination thereof.
- (4) Disposal. Trash shall be stored only as long as necessary and shall be disposed of in a timely manner.
- (5) Preexisting Uses. Preexisting nonconforming trash storage on properties must be in compliance with these requirements within three (3) months of the effective date of this Zoning Law.

§ 25.5 Accessory Apartments

A. Intent. It is the intent of the Village of Bemus Point in regulating accessory apartments to:

- (1) Allow for an increase in housing options while respecting the design and scale of low density residential neighborhoods;
- (2) Provide a broader range of affordable housing options that respond to changing family and household needs; and
- (3) Offer a means for residents to remain in their homes and neighborhoods while also obtaining extra income, security, companionship, and/or home health or other services.

B. General Requirements. Accessory apartments shall conform to the following:

- (1) Accessory apartments may be permitted as an accessory use to a single-family residence only. There shall be no more than one (1) accessory apartment per property and the accessory apartment shall not have a separate postal address different from that of the principal dwelling.

- (2) The individual sale or subdivision of an accessory apartment from the primary dwelling or lot is strictly prohibited. Both the primary and accessory uses shall be located on the same tax parcel.
- (3) Accessory apartments may be located within the primary structure or an accessory structure, provided all lot area, bulk, and dimensional requirements may be met. Detached accessory apartments shall be setback at least 10 feet from the side and rear property line.
- (4) The maximum floor area of an accessory apartment shall not exceed 30% of the primary residence gross habitable floor area or 1,000 square feet, whichever is less.
- (5) An accessory apartment shall include no more than one (1) bedroom.
- (6) Accessory apartments shall not be permitted on nonconforming lots or within nonconforming structures.

C. Building and Site Design.

- (1) Accessory apartments must be within a permanent, habitable structure built on a permanent foundation that meets all local and state building code requirements. The use of recreational vehicles for accessory apartment purposes shall be prohibited.
- (2) Properties with an accessory apartment must provide the minimum number of off-street parking spaces for a single-family dwelling plus one (1) space. The additional parking space shall be located behind the front building line of the primary structure.
- (3) No accessory apartment shall be permitted if the property cannot accommodate the required off-street parking spaces for the principal dwelling and the accessory apartment.
- (4) The construction, modification, addition, or demolition of the accessory apartment shall not discernably alter the single-family residential character of the lot or structure located thereon.
- (5) All exterior entrances providing direct access to an accessory apartment shall be located on the side or rear façade of the primary structure. Detached accessory apartments may be exempt from this provision.
- (6) To ensure compliance with this Zoning Law, an architectural plan shall be submitted as part of site plan review. The plans shall be accurately drawn to scale, indicating the relationship and size of the primary and accessory uses and structures on the property, as well as parking areas and any proposed exterior alterations.

D. Utilities.

- (1) Accessory apartments are required to have permanent and legal hookups for water, sewer, and electricity that comply with local and state building codes.
- (2) If the water supply is from a private source, the applicant shall certify that the water supply is potable and of adequate flow.
- (3) The applicant shall certify that the sewage disposal system is adequate to serve both the primary and accessory units. Failure to correct promptly any resulting sewage system problem shall result in revocation of all permits associated with the accessory apartment and will be considered a violation of this Zoning Law.
- (4) No permit shall be granted in any case where the County Department of Health has determined that the water or sewage system serving the dwelling or dwellings in question is for any reason not capable of handling the additional demand that would be imposed upon it in the event the accessory apartment is established.

E. Owner-Occupancy Requirements.

- (1) The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises at least six (6) months of the year.
- (2) The owner shall refile the deed to the property in the County Clerk's Office incorporating the following notice in said deed: "The single family residence on the property includes an accessory apartment approved by the Village of Bemus Point subject to the regulations of the Village Zoning Law, which among other things requires that one of the units on the premises shall be occupied by the lot owner." A copy of the filed deed shall be provided to the Village Clerk.

F. Enforcement.

- (1) Prior to the issuance of any permits, the property shall be subject to inspection by the Zoning Officer to ensure compliance with the requirements of this Zoning Law and all other local, regional, or state laws, rules, and regulations.
- (2) Accessory apartments may also be subject to annual inspection by the Village to ensure continued compliance.
- (3) The certificate of occupancy for the principal use shall clearly identify such accessory apartment and its floor area.

§ 25.6 Adult Uses

A. Purpose.

- (1) In the execution of these provisions, the Village of Bemus Point recognizes that there are some adult business uses which, due to their very nature, have serious objectionable operational characteristics, particularly when located near residential neighborhoods and other sensitive land uses. The objectionable characteristics of these uses are further heightened by their concentration within an area, thereby having deleterious effects on adjacent areas.
- (2) It has been acknowledged by communities across the nation that state and local governments have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that their objectionable characteristics will not contribute to the degradation of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable secondary effects arising from these enterprises are set forth below.
- (3) The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods and important natural and human resources of the Village, to deter the spread of blight and to protect minors from objectionable characteristics of these adult business uses by restricting their proximity to places of worship, schools, day-care centers, educational institutions, parks, historic and scenic resources, libraries, civic and cultural facilities, and residential areas.

B. General Requirements. Adult business uses are to be restricted in the following manner, in addition to any other requirements of the Zoning Law.

- (1) Adult business uses shall not be located within a 1,000-foot radius of any residential district, or any property used for residential purposes. For measurement purposes, the distance shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of such adult use to the boundary line of such residential district or residential property.
- (2) Adult business uses shall not be located within a 1,500-foot radius of another adult use. For measurement purposes, the distance between adult business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of any adult use to the closest structural wall of any other adult use.
- (3) Adult business uses shall not be located within a 1,000-foot radius of any school, day-care center, educational institution, place of worship, park or playground, historic or scenic resource, library, and civic or cultural facility. For measurement purposes, the distance between an adult business use and other such named uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of such adult use to the closest property boundary of such school, nursery school, day-care center, educational institution, house of worship, park, or playground, historic or scenic resource, library, and civic or cultural facility.

- (4) Not more than one adult business use shall be located in the same building or upon the same lot or parcel of land.
- (5) No loudspeakers or sound equipment shall be used for adult business uses that can be discerned by the public from public or semipublic areas.
- (6) Transparent windows and doors shall be tinted so as to prohibit view into the adult use building.
- (7) Obscene language and/or imagery is prohibited on all signage.

§ 25.7 Animal Care Services

- A.** Adjacent properties shall be adequately protected from noise, odors, and unsightly appearances. Such protections may include, but are not limited to, landscaped buffers, berming, and fencing.
- B.** Adequate methods for sanitation and sewage disposal, which may require a waste disposal plan, are required. The disposal plan, at a minimum, shall outline the approximate amount of waste expected and proper disposal and sanitation methods.
- C.** All such operations shall apply for and secure proper licensing and registration as required by state and local law.
- D.** All services shall be provided within a completely enclosed building, except for outdoor animal exercise, play, or containment areas subject to site plan review and approval.
- E.** All buildings, structures, accessory use areas, and outdoor animal exercise, play, or containment areas, except off-street parking areas, shall be located at least 100 feet from any property line.
- F.** Screening for outdoor animal exercise, play, or containment areas shall be required to create a visual, sound, and odor buffer between such facility and adjacent properties.
- G.** All animals will be confined to the property and housed in an enclosed structure in humane conditions (i.e. protected from weather, clean, sanitary, adequate space, non-porous surfaces, well-ventilated, etc.).

§ 25.8 Bed & Breakfasts (B&Bs)

- A.** A B&B shall only be permitted in a detached single-family residential structure.
- B.** The owner of the B&B shall live full-time on the premises.
- C.** There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the structure and that of the neighborhood, or other visible evidence of the conduct of such B&B other than an approved sign in accordance with Article 35.

§ 25.9 Breweries, Wineries, & Distilleries

- A. When adjacent to residential uses or districts, such uses shall be buffered to minimize visual and auditory impacts in a method approved during site plan review. Such buffering may include but is not limited to landscaping, screening, and fencing.
- B. All such uses dealing with the importation, manufacture, distribution, or sale of alcohol shall obtain a license as required by the NYS Liquor Authority and operate in accordance of the regulations therein. A complete copy of any application filed with and license issued by the NYS Liquor Authority shall be provided with any application subject to this Zoning Law.
- C. Bars and tasting rooms of breweries and distilleries shall include a minimum food preparation area and menu that satisfies the NYS Liquor Authority's minimum food requirement.
- D. A waste management plan shall be required to provide for proper upkeep of the site and disposal of refuse. All refuse containers shall be located in the rear yard and maintain a setback of at least five feet from all property lines.
- E. Where the provision of on-site refuse containers is infeasible, a shared waste management agreement may be established between adjacent uses. Under no circumstance shall any shared refuse container be located outside of a 200 foot radius of a single use.

§ 25.10 Home Occupations

- A. **Purpose.** The purpose of regulating home occupations is to allow home office or small business development within homes in a residential neighborhood, while still preserving the value and character of the existing residential properties.
- B. **Permitted Occupations.** Permitted home occupations include but are not limited to lawyers, accountants, authors, engineers, architects, consultants, realtors, insurance agents/brokers, artists, photographers, tailors, crafters, repairpersons, beauticians, barbers, counselors, teachers, tutors, music or art instructors, seeing no more than three pupils or clients at a time, or other such vocations which the Zoning Officer deems appropriate by virtue of similarity in nature, activity, and/or extent.
- C. **Prohibited Occupations.** Prohibited home occupations include those that would generate adverse impacts to or are incompatible with the existing character of a residential neighborhood. These uses include, but are not limited to, medical or emergency services, animal care services, and vehicle sales, service, or repair.
- D. **General Requirements.** A home occupation shall comply with the following:
 - (1) Home occupations must be clearly incidental and secondary to the use of the residential dwelling and shall conform to all requirements of the NYS Uniform Building and Fire Prevention Code.

- (2) The residential character of the lot and structures located thereon shall be preserved. Structural alterations or additions of a nonresidential nature shall be prohibited.
- (3) The home occupation shall be owned and operated by a full-time resident of the dwelling.
- (4) All home occupation related activities shall occur wholly within an enclosed structure.
- (5) No more than one (1) employee shall be permitted that is not a resident of the dwelling.
- (6) There shall be no exterior display or storage of materials, good, supplies, or equipment related to the home occupation.
- (7) No home occupation shall produce odors, noises, dust, vibrations, glare, or any other nuisance not typically found in a residential neighborhood.
- (8) Deliveries to home occupations shall be permitted by two-axle vehicles only.
- (9) Home occupations shall be limited to 30% of the gross floor area of the primary structure.
- (10) There shall be no external evidence of such use except for a sign installed in accordance with Article 35.

§ 25.11 Live/Work Units

A. Applicability.

- (1) A single dwelling unit (e.g., studio, loft, apartment, or single-family home) consisting of both a commercial and a residential component where the uses share a common wall or floor with direct access between the residential and nonresidential area.
- (2) Live/work units are differentiated from home occupations in that the residential and/or commercial use need not be subordinate to the other in terms of floor area or intensity of use. Live/work units typically occupy a larger share of the dwelling and/or include a larger-scale commercial element such as retail sales or on-site production.

B. Requirements.

- (1) A single live/work dwelling unit shall not exceed 1,500 square feet in gross floor area.
- (2) Nonresidential areas of the live/work unit shall not exceed 60% of the gross floor area.
- (3) At least one (1) of the full-time employees of the commercial operation must be a full-time resident of the live/work unit.

- (4) No more than two (2) employees not living on the property may report to the unit for work.
- (5) No more than two (2) bedrooms per live/work unit shall be allowed.
- (6) The residential area/bedrooms shall not be rented separately from the working space.
- (7) Commercial operations within live/work units may include on-site retail sales, production of materials, art, or other such craft.
- (8) No use shall be operated in an objectionable manner, due to fumes, odor, dust, smoke, gas, noise, or vibrations that are or may be detrimental to properties and occupants in the area, and/or to any other uses and occupants on the same property.

§ 25.12 Outdoor Seating, Sales, or Display, Nonresidential

A. Purpose. The purpose of these regulations is to promote and enhance the pedestrian character and experience within the Village's commercial and lakefront areas, add to the vibrancy of the Main Street environment, and strengthen the vitality of the retail, dining, and hospitality sectors as an essential component of the Village economy, while protecting adjacent properties and the general streetscape against potential negative impacts.

A. General Requirements. Outdoor seating, sales, and display areas shall conform to the following:

- (1) No such area shall be located within any public right-of-way or sidewalk.
- (2) No such area shall block signs, windows, entrances, exits, pedestrian or vehicular access, sidewalks, fire lanes, or other travel lanes.
- (3) No such area shall exceed 30% of the gross floor area of the primary use.
- (4) No such area shall be used for outdoor storage purposes.
- (5) All such areas shall be located adjacent to the wall of the primary structure and shall not extend more than 10 feet from said wall, unless otherwise approved through site plan review.
- (6) All seating, furniture, and items for sales or display shall be removed, enclosed, screened, and/or otherwise secured during non-business hours.

B. Outdoor Seating. The following requirements shall also apply to all outdoor seating areas.

- (1) There shall be a minimum four (4) foot wide corridor that shall remain free and clear of any tables and chairs associated with the outdoor seating area and that shall provide for unobstructed passage of pedestrians and persons in wheelchairs. This corridor shall connect directly with similar corridors on adjacent properties to the maximum extent feasible.

- (2) The owner of an outdoor seating area is responsible for keeping the entire outdoor space, including the required pedestrian walkway, clean and free of trash and debris at all times.
- (3) The owner of the outdoor seating area must provide for regular removal of all trash and/or provide trash receptacles.
- (4) Music is permitted as an element of outdoor seating, but shall not present a noise disturbance to adjacent properties or beyond.

§ 25.13 Outdoor Storage, Nonresidential

- A. Applicability.** These standards shall apply to all uses, except for single-family, two-family, or multi-family dwellings.
- B. General Requirements.** The following requirements shall apply to all outdoor storage areas:
- (1) Materials and goods located in outdoor storage areas shall be limited to those necessary for and specific to the operation of the use, such as items for sale at a retail store or building materials for a construction company.
 - (2) Accessory outside storage areas shall occupy an area less than 50% of the existing primary building footprint. This provision shall not apply to uses where outdoor storage serves a primary purpose, such as contractor's yards and vehicle sales lots.
 - (3) No area shall occupy or block any part of the public right-of-way, or any existing pedestrian walkways, vehicular accessways, required parking spaces, or yard areas.
 - (4) Such areas shall remain clean and free of trash or debris at all times.
 - (5) Materials and goods located in outdoor storage areas, whether individually stored or stacked, shall not exceed six (6) feet in height.
 - (6) All areas shall be fully screened from public view and from adjacent residential uses or districts using landscaping, berming, fencing, or any combination thereof.
 - (7) Outdoor storage facilities for fuel, raw materials, and hazardous or consumable products shall be enclosed within an approved fence able to be secured to prevent unauthorized access.
 - (8) No materials or waste shall be placed upon a lot in such form or manner that they may be transported off by natural causes or forces. Any substances which can contaminate groundwater, surface water or adversely affect aquatic life shall not be permitted to enter the groundwater or surface water. Applicable Department of Environmental Protection regulations shall apply.
- C. Storage of Explosives.** No flammable or explosive liquids, solids, or gases shall be stored in bulk above the ground except for tanks or drums of less than 275 gallons of fuel

directly connecting with energy devices, heating devices, or appliances located and operated on the same lot as the tanks or drums of fuel.

§ 25.14 Recreation / Entertainment Uses, Outdoor

- A. Permitted Uses.** Permitted outdoor recreation and entertainment uses may include passive or active recreation, such as a park; playfield; playground; arboretum; conservation area; wildlife sanctuary; winter sport; swimming pool; boating; horseback riding; fishing; foot, bicycle and bridle path; riding stable; picnic area; outdoor tennis and other racquet game court or any similar use characteristically identified with open space areas and of a noncommercial nature, but in accordance with the following development standards:
- (1) The use shall not involve construction or use of any building with over 1,000 square feet of floor area.
 - (2) Impervious coverage for the use shall not exceed 10% of the gross lot area, excluding pedestrian or bicycle paths.
- B. Specially Permitted Uses.** The following uses may be permitted with the issuance of a special use permit.
- (1) Any outdoor recreation or entertainment use that is commercial or exceeds the development standards of Subsection A above.
 - (2) Golf courses, racquet clubs, or other similar commercial or noncommercial recreation clubs.
 - (3) Campgrounds or recreational vehicle parks (excluding mobile homes).
 - (4) Auxiliary uses customarily incidental to operation of the uses in Subsections 1, 2, and 3 above, including a restaurant, locker room, laundry, management headquarters, residence, nursery, and day care center.
- C. General Requirements.**
- (1) No outdoor recreation or entertainment facilities shall be located closer than 50 feet to the property line of any adjacent residential use or district unless proper landscaping and screening is provided as approved in site plan review.
 - (2) Permanent, enclosed bathroom facilities for the general public shall be provided on site.
 - (3) Hours of operation shall be posted on-site. All outdoor facilities shall be secured and closed to the public outside of operating hours.
 - (4) A waste management plan shall be required to ensure proper upkeep of the site and disposal of trash, litter, animal waste, and other refuse.

- D. Food Service.** Food service associated with the use shall be permitted, provided that it complies with all applicable requirements of this Zoning Law and Chautauqua County Health Department regulations.

§ 25.15 Restaurants & Bars

- A. Screening and Buffering.** When adjacent to residential uses or districts, such uses shall be buffered to minimize visual and auditory impacts (e.g., parking lots, lighting, compressors) in a method approved during site plan review. Such buffering may include but is not limited to landscaping, screening, and fencing.
- B. Liquor Authority Compliance.**
- (1) All such uses dealing with the importation, manufacture, distribution, or sale of alcohol shall obtain a license as required by the NYS Liquor Authority and operate in accordance of the regulations therein. A complete copy of any application filed with and license issued by the NYS Liquor Authority shall be provided with any review application required by this Zoning Law.
 - (2) Uses where the sale of food is the primary source of revenue, and where the primary service is provided at tables, shall be considered restaurants. Restaurants must have a full kitchen and menu as required by the NYS Liquor Authority when the sale of beer, wine, and/or liquor is provided.
- C. Waste Management.**
- (1) A waste management plan shall be required to provide for proper upkeep of the site and disposal of refuse. All refuse containers shall be located in the rear yard and maintain a setback of at least five feet from all property lines.
 - (2) Where the provision of on-site refuse containers is infeasible, a shared waste management agreement may be established between adjacent uses. Under no circumstance shall any shared refuse container be located outside of a 200 foot radius of a single use.
- D. Traffic Safety.** The entrance and exit location and size shall be safely designed with minimal obstructions. Pedestrian safety shall also be considered.
- E. Entertainment.** The applicant shall specify the type of entertainment to be utilized, location in building, maximum frequency and hours of entertainment. No nuisance shall be permitted; and if it becomes apparent that any of these provisions are creating a nuisance, a public hearing shall be required to reevaluate the original application.
- F. Other.** Any other condition as deemed reasonable and necessary to protect the public health, safety, and welfare may be required by the reviewing body.

§ 25.16 Short-Term Rentals (STRs)

- A. Purpose.**

- (1) The Village of Bemus Point is proud to be a community that welcomes visitors while maintaining availability of permanent housing stock for residents and a high quality of life. The backbone of our Village is our residential neighborhoods and the overconcentration of STRs may cause disruption to the peace, quiet, and enjoyment of people that call Bemus Point home.
- (2) To respect the property rights and interests of all homeowners and long-term renters in the Village, the following requirements seek to achieve a balance between those who wish to offer their homes and properties as STRs and those who choose not to do so.
- (3) The STR requirements for the Village are intended to safeguard the public health, safety and welfare by regulating and controlling the location, use, occupancy, oversight, and maintenance of STR properties through location, density, operational, and permitting regulations.

B. Definition. A short-term rental (STR) is defined as the rental of a property or any part(s) thereof, to any person, group, or entity for a period of not more than 30 consecutive days. Motels, hotels, inns, bed and breakfasts, and ongoing month-to-month tenancies are excluded from this definition.

C. Presumption of Dwelling as an STR. The presence of the following shall create a presumption that all or a part of the property is being used as an STR. These presumptions may be rebutted by evidence presented to the Zoning Officer.

- (1) All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than 30 days; and/or
- (2) All or a part of the property is offered for lease for a period of 30 days or less through any form of advertising.

D. Short-Term Rental (STR) Permits.

- (1) STR Permits Required. An STR permit shall be required of all STRs, whether permitted or specially permitted by this Zoning Law. Where a special use permit is also required, the STR and special use permit applications shall be reviewed concurrently. However, no STR permit shall be issued prior to special use permit approval.
- (2) One Permit per Dwelling Unit. An STR permit shall be required for each individual dwelling unit intended to be used for STR purposes, regardless of building or property configuration. For example, a three-family home where all three dwelling units are proposed to operate as STRs shall require the issuance of three separate STR permits.
- (3) Annual Review Cycle.

- a. STR permits shall be valid for a period of 12 months from the date of issuance and must be renewed to continue operation. Prior STR permit approvals are not a guarantee for renewal.
 - b. No permit shall be issued for any owners that have had an STR permit revoked within the last 36 months.
 - c. STR permits are not transferable to a new property owner. The new owner of an STR property must file for a new permit in accordance with this Section.
- (4) Maximum STR Permits Allowable.
 - a. In residential districts, there shall be no more than 20 STR permits issued annually. The Village shall establish a waiting list for STR permits for instances where the number of applications exceeds that of the number of STR permits available.
 - b. In nonresidential districts, there shall be no limit on the number of STR permits.
- (5) Residential District STR Permit Waiting List.
 - a. Applications for STRs shall be accepted, processed, and reviewed on a first-come, first-serve basis. Once the number of applications reaches the number of allowable permits, the remaining applicants shall be placed on the waiting list in the order in which they are received.
 - b. Where an application for an STR is determined to be incomplete, is withdrawn by the applicant, or is otherwise denied the issuance of a permit, the next applicant on the top of the waiting list shall be provided the opportunity to have their application processed and reviewed.
 - c. Where an STR permit is revoked or the applicant allows said permit to expire without securing a new permit under the provisions of this Zoning Law, the next applicant on the top of the waiting list shall be provided the opportunity to have their application for said permit processed and reviewed.
 - d. The waiting list for STR permits shall be maintained by the Zoning Officer and/or Village Clerk. All applications shall be dated and timestamped upon receipt by the Village.
 - e. The Zoning Officer and/or Village Clerk shall notify applicants on the waiting list within 30 days of the opening for an STR permit. An applicant that fails to follow through on their submittal within 30 days of notification shall be considered to have withdrawn their application and the next in line shall be notified.
- (6) Unlawful Operation. It shall be unlawful for any owner, tenant, agent or other representative of the owner to rent, lease, advertise, or hold out for rent any dwelling unit for STR purposes without a permit. Failure to comply will result in the penalties described herein.
- (7) Revocation of Permit. An STR permit may be revoked after finding at least one of the following:

- a. Two (2) separate violations of the requirements and provisions of this Section.
- b. Any material misrepresentation of information provided, required by this Section, after the permit holder is given notice and a hearing is held by the Zoning Board of Appeals.
- c. Failure to pay fines within one (1) week.

E. STR Permit Application Requirements. Prior to undertaking an STR, the owner of the premises upon which the use shall be exercised shall supply, in writing, the following information to the Village of Bemus Point: PO Box 450, Bemus Point, NY 14712

- (1) Street address and section, block and lot number of the premises as set forth on the official Village of Bemus Point Tax Map.
- (2) A plan, drawn to scale, showing the lot, location of the improvements and available parking area. Number of bedrooms and beds available shall be specified, including day beds and sleeper sofas.
- (3) Proof of ownership and the name, address and telephone number of each and every person or entity with an ownership interest in the premises.
- (4) Full name, address and telephone number of any agent or real estate agent or broker acting on behalf of the owner or owners with respect to renting or leasing the premises.
- (5) Occupancy load of the premises. This number must be approved by the Zoning Officer and must meet the requirements this Section and all fire and safety laws, rules, and regulations.
- (6) Name, address and telephone number of local contact person available to respond to any and all complaints concerning the transient use of the premises within 12 hours after said complaint is filed with the Village of Bemus Point.
- (7) A copy of the written list of rules to be posted in the dwelling unit for the renters, including the following. The compilation of said list is the responsibility of the homeowner.
 - a. The operational, occupancy, and parking requirements of this Section;
 - b. All other relevant local laws, rules, and regulations, such as the Village's Local Leash Law and local garbage and recycling service information.
- (8) Written certification that the above mentioned rules will be conspicuously posted on the premises.
- (9) Payment of the STR permit fee, in accordance with the Village Fee Schedule.
- (10) Any additional information required by the reviewing body deemed necessary to determine compliance with the provisions of this Zoning Law, as well as other local, county, and/or state rules and regulations.

F. Neighboring Property Notification. Upon the submission of the application materials as set forth above, together with a determination by the Zoning Officer that the premises are not in violation of any of the provisions of the Village Zoning Law, a notice shall be sent by the Village of Bemus Point to the owners and tenants of all real property within 300 feet of the subject property.

G. Operational Requirements.

- (1) The use of fireworks or pop-up tents is prohibited.
- (2) The property shall not be rented out for the purposes of hosting events, weddings, parties, or other large gatherings exceeding the maximum occupancy of the STR.
- (3) Provisions shall be made for weekly garbage and/or recycling removal. Garbage and recycling containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not visible from the street or road except around pick-up time.
- (4) Quiet hours are from 10:00 pm to 7:00 am weekdays and 11:00 pm to 7:00 am on weekends. The use of outdoor speakers or other audio amplification devices during this time shall be prohibited.
- (5) The use of Port-o-Johns, Porta Potties, or other such portable toilet structures shall be prohibited on STR properties.
- (6) Indoor and/or outdoor fires must be attended at all times. Guests and occupants shall comply with all relevant burn bans.
- (7) Renting out of on-site amenities, such as pools, lawns, docks, or accessory structures separate from the approved STR shall be prohibited.
- (8) No accessory structure associated with a STR property may be converted to or utilized for overnight sleeping accommodations.
- (9) Camping in a tent or RV on the property shall be prohibited.

H. Parking Requirements.

- (1) Off-street parking shall be provided for all STRs in accordance with Article 33.
- (2) Parking of STR occupant vehicles is prohibited on public streets or in non-designated, unpaved spaces, such as lawns.

I. Maximum Occupancy. Permissible STR occupancy shall be limited to no more than two (2) adults per bedroom. In no case shall an STR be permitted to have an occupancy over 10 adults. For the purpose of this Section, “adult” means any person over the age of 18.

J. Signs. Signs may be permitted in accordance with Article 35.

K. Safety Standards. All STRs must comply with the following safety standards:

- (1) Emergency evacuation procedures must be posted in each sleeping room.
- (2) An fire extinguisher shall be provided on each floor and in each kitchen. Fire extinguishers shall be inspected monthly by the permit holders.
- (3) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
- (4) All structures on a STR property shall be in full compliance with the NYS Uniform Fire Prevention and Building Code, including but not limited to the provision of smoke alarms and carbon monoxide detectors.

L. Taxation. All applicants and permit holders shall register and file as a lodging business with Chautauqua County for occupancy tax purposes.

M. Compliance with Other Local, State, and Federal Regulations. Owners and/or operators of STRs shall obey all other applicable laws, ordinances and regulations of the Village of Bemus Point, Chautauqua County, New York State, and the United States, and shall be subject to the enforcement and penalty provisions contained therein. This shall include, but is not limited to, the NYS Uniform Fire Prevention and Building Code.

N. Inspections.

- (1) The Zoning Officer, or their designee, shall make inspections prior to the issuance of a permit, including annual renewal applications, to determine the condition of an STR and ensure compliance with this Zoning Law and other applicable local, state, and federal rules, laws, and regulations.
- (2) For the purpose of making inspections, the Zoning Officer or their designee may enter, examine and survey, at all times, all buildings, dwelling units, guest rooms and premises on presentation of the proper credentials. The owner or operator of an establishment, or the person in charge, shall give the inspector free access to the building.

O. Violations.

- (1) A complaint alleging a violation of the provisions and requirements set forth herein may be filed with the Village Clerk or Zoning Officer. Such complaint shall be in writing and signed by a person having personal knowledge of the facts alleged therein.
- (2) The Village of Bemus Point Zoning Officer shall cause an investigation to take place, within five (5) business days, based on such written complaint.
- (3) In the event such investigation results in the Zoning Officer having reasonable belief that the violation has occurred, a notice of violation shall be issued in accordance with §11.2.

P. Transitional Provisions.

- (1) All existing, previously approved STR properties shall be considered pre-existing, nonconforming uses as of the effective date of this Zoning Law.
- (2) All pre-existing, nonconforming STRs shall cease operation within one (1) year of the effective date.
- (3) Pre-existing, nonconforming STRs may honor rental commitments secured prior to the effective date of this Zoning Law during this time, but shall cease advertising and securing new commitments until a STR permit has been issued in compliance with this Section.
- (4) The Village shall notify in writing all previously approved STR properties of these transitional provisions and new STR requirements no more than 30 days after the effective date of this Zoning Law.

§ 25.17 Wireless Communications Facilities (WCFs)

A. Intent. It is the intent of the Village to establish an orderly process for managing the accommodation of the communication needs of the residents and businesses consistent with applicable Federal and State regulations, while protecting the health, safety, and general welfare of the residents of the Village of Bemus Point by:

- (1) Facilitating the provision of wireless telecommunication and other communication services to the residents and businesses of the Village, while simultaneously preserving the character, appearance and aesthetic resources of the Village;
- (2) Minimizing the adverse visual effects of telecommunication towers and facilities through development of siting and approval criteria;
- (3) Protecting the scenic, historic, environmental, natural and man-made resources of the Village;
- (4) Preserving property values of the Village;
- (5) Minimizing the undue proliferation and height of communication towers throughout the Village;
- (6) Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling objects and attractive nuisances by the establishment of appropriate siting standards;
- (7) Encouraging, where reasonably possible, the shared use of existing and approved towers in order to reduce the number of towers needed to serve the community and thereby minimize and mitigate the adverse visual impacts of towers and their facilities.

B. FCC Compliance. These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:

- (1) They do not prohibit, nor have the effect of prohibiting, the provision of personal wireless services,

- (2) They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services, and
- (3) They do not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions.

C. Site Plan review and Special Use Permit Required. All WCFs and towers shall require site plan and special use permit approval in accordance with the procedures and requirements of **Articles XX and XX.**

D. Additional Submittal Requirements. In addition to the standard submittal requirement for a site plan, as specified in **Article XX,** an application for a WCF and tower shall include the following documentation. However, the reviewing board may waive the submittal of certain of the following documentation in the instance of a WCF that is to be located on an existing structure or tower:

- (1) Necessity of service. A demonstration supported by standard engineering practices that the proposed WCF is necessary in order to provide service to locations which cannot be served by existing WCF and/or towers within and outside the Village, and/or by alternate technologies, such as repeaters.
- (2) A copy of the FCC License for the applicant's service in the proposed area.
- (3) A five year build-out plan for the proposed site and other sites within the Village and within adjacent towns, clearly demonstrating the applicant's plans for other structures, proposed application and building dates.
- (4) Structural Integrity Certification. A certification by a NYS Licensed Professional Engineer that the supporting structure/tower will meet the Uniform Fire Prevention and Building Code wind load requirements for the proposed facility and any additional users identified in the Co-Location Certification.
- (5) Co-Location Certification. A demonstration by standard engineering practices, signed by a licensed NYS Professional Engineer, that the structure or tower can accommodate additional co-locators. Such data shall identify the maximum number of co-locators, or alternative co-location strategies, which could be supported on the structure or tower.
- (6) Visual Impact Assessment. The applicant shall provide a visual impact assessment, including a photo simulation that supports, with clear and convincing evidence, that the visual, aesthetic, and community character intrusion impacts have been minimized to the greatest extent possible.
- (7) Height and Bulk Documentation. The applicant shall provide clear and convincing evidence that the proposed height and bulk of the WCF is the minimum necessary to provide licensed communications to the locations in the Village that the applicant is unable to serve by an existing facility and by a facility of lower height.

- (8) Emission Certification. A report signed by NYS Licensed Professional Engineer with expertise in radio communication facilities and/or a health physicist with expertise in radio frequency emissions, which states that the proposed maximum equipment output at the proposed site will comply with all emission standards adopted by the FCC. Such certification may be required to be periodically updated.
- (9) Non-interference Certification. A certification and supporting evidence that the proposed WCF will not cause interference with existing communication devices.

E. Lot and Setback Requirements.

- (1) Minimum lot size shall be as specified in Articles 20, 21, and 22 or a minimum area equal to a square that is the height of the tower, whichever is greater.
- (2) All WCFs and towers shall be setback from all property lines and above ground power lines not less than the maximum distance from the center of the monopole or tower to the perimeter of the fall zone should the structure collapse, as certified by a NYS Licensed Professional Engineer; or the setbacks established in Articles 20, 21, and 22 for the Zoning District, whichever is greater.
- (3) All WCFs and Towers shall be located so as to be:
 - a. Separated from all dwellings by a distance of not less than 500 feet.
 - b. Separated from all day care centers and schools by a distance of not less than 500 feet.
 - c. Separated from all churches and places of worship by a distance of not less than 500 feet.
 - d. Separated from a road right-of-way by a distance of not less than five hundred (500) feet.

F. Height limits. The height of any new tower shall be the minimum required to establish and maintain adequate service as documented in the submittal documentation. In no instance shall the tower exceed 150 feet above the ground elevation, nor a maximum of 50 feet above the tree line, whichever is less, unless specific documentation is provided which substantiates that the proposed service requires a tower of greater height.

G. Support structures. All new towers shall be a monopole, unless otherwise authorized by the Zoning Board of Appeals for good cause as shown in the submittal documentation.

H. Lighting. Signal lights shall be prohibited unless required by the FCC or Federal Aviation Administration.

I. Visual Impact.

- (1) A WCF and/or tower shall be sited so as to affect the minimum adverse visual impact on the surrounding areas and roadways. Facilities and towers shall be designed and constructed of materials that are harmonious with the natural setting of their location/area.
- (2) The maximum area permitted to be cleared shall be no more than 50 feet in extent from the tower and/or accessory structure footprint. Only the very minimum amount of vegetative clearing shall be permitted to accommodate construction.
- (3) All equipment accessory structures shall be sited to minimize their adverse visual impact on the surrounding areas and roadways. The reviewing body may require that these facilities shall be located completely, or partially, underground.
- (4) All equipment not located within a structure shall be designed and/or treated with materials to blend with the surrounding natural setting and/or other accessory structures.

J. Co-Location.

- (1) Co-Location is required of all new WCFs and towers unless:
 - a. The applicant has provided clear and compelling evidence in accordance with Section 23.23(D);
 - b. Co-Location cannot achieve the minimum reasonable technical needs of the proposed facility;
 - c. The inability to secure permission of the owner(s) of existing site(s) and/or facility(ies) at a reasonable cost to allow such additional installation; and/or
 - d. Structural and other engineering limitations, absent reasonable refurbishment, are demonstrated.
- (2) The applicant shall document additional capacity for future shared use of the tower and shall certify that such additional capacity shall be available for future applicants providing Wireless Telecommunication Services, subject to good faith negotiations.
- (3) The clustering of towers and WCF on the same lot shall be considered if colocation cannot be accomplished.

K. Security. Each WCF shall be protected against unauthorized access. Security fencing shall be required. The reviewing board shall determine the extent and height of fencing required based on the site plan application submittal.

L. WCFs without Towers. All newly proposed WCFs without towers, and alterations to existing WCF without towers, that are accessory uses, shall meet the standards for the principal building or structure on which they are to be located.

M. Exempt Facilities. The Village has determined that the following transmitting and/or receiving telecommunication facilities are exempt from regulation under this Zoning Law and Section:

- (1) Amateur radio and satellite facilities, so long as such facilities are operated by a licensed amateur;
- (2) Civil Emergency facilities and other safety towers required by Federal and/or State agencies; and
- (3) Home satellite facilities where installed on residential premises solely for the use by the residents of those premises and not offered for re-sale to off-premise locations.

N. Abandonment. WCFs which are not operated for the provision of wireless telecommunication services for a continuous period of 12 months or more may be deemed to be abandoned. Upon receipt of a written Notice of Determination of Abandonment from the Village, the operator shall remove the WCF within 90 days.

ARTICLE 26. SUPPLEMENTAL LOT & YARD REGULATIONS

§ 26.1 Streets & Intersections

- A. **Access to Public Street.** To discourage the need for new public roadways, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street. However, for those parcels which do not abut a public highway a permanent easement to a public street shall be required upon which a private road may be located. The Village shall not be responsible for assuming any private road as a Village road.
- B. **Visibility at Intersections.** For the purpose of maintaining sight lines and promoting traffic safety, on corner lots in any district, no fence, wall, hedge, sign, or other structure or planting more than three (3) feet in height shall be erected or placed within the triangular area formed by the intersecting street edge lines and the imaginary straight line down between the points 50 feet from the intersecting street edge lines along the street edge lines (see the figure at right).



§ 26.2 Use of Lots

- A. **Number of Buildings on a Lot.** No more than one (1) principal residential dwelling shall be located on a zoning lot.
- B. **Division of Lots.** No lot improved with a building or buildings shall hereafter be divided into two (2) or more lots and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all lots resulting from each such division or sale and improved with a building or buildings shall not be less conforming to all the bulk regulations of the zoning district in which the property is located.
- C. **Contiguous Lots.** Two or more parcels of contiguous land held in one ownership and each lacking adequate area and dimension to qualify for a permitted use through the district in which they are located may be considered one lot for such use.
- D. **Corner Lots.** Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements.
- E. **Existing Substandard Sized Lots.**
 - (1) The minimum area requirements specified for each type of allowed use shall not prevent the construction of an allowable use on a substandard sized lot which existed and was officially recorded at the time of enactment of this Zoning Law if the following conditions are met:

- a. The substandard lot is not less than 75% of all applicable standards; and
 - b. The County Health Department approves the lot.
- (2) Of the above, if (a) cannot be met but (b) has been accomplished, the applicant may request an area variance in accordance with **Article XX**.

§ 26.3 Height Exemptions

- A. Exemptions.** The height limitations of this Zoning Law shall not apply to church spires, belfries, cupolas, silos, and domes, not used for human occupancy; not to chimneys, ventilators, skylights, windmills, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20% of the ground floor area of the building.
- B. Parapets and Cornices.** This Zoning Law shall not prevent the erection of a parapet wall or cornice for ornament (and without windows) extending above the building height, provided such wall or cornice is not more than five (5) feet above the maximum building height.

§ 26.4 Yards, Courts, & Open Space

- A. Location.** All yards, courts, and open space shall be located on the same lot as the structure for which the setback and area requirements are required.
- B. Permitted Obstructions.** Yards, courts, and other open space areas shall be kept undeveloped to meet setback and lot coverage requirements of this Zoning Law, with the following exceptions:
- (1) Open terraces, patios, awnings and canopies, chimneys, trellises, flag poles, open fire escapes, balconies, and other similar uses which do not extend more than 40% of the required setback nor come closer to a lot boundary line by more than 40% of the required setback.
 - (2) Bay windows, steps, chimneys, overhanging eaves and gutters and other similar uses shall not extend more than four (4) feet from the principal structure nor come within two (2) feet of any property lines.
 - (3) Off-street parking spaces in accordance with Article 33.
 - (4) Existing structures which do not meet front, side or rear yard requirements may be “filled in” to the extent that any addition does not project outward beyond an existing wall and thus the structure does not become more nonconforming with respect to setback requirements.
- C. Established Front Yards.**

- (1) In an existing neighborhood where structures are not set back from the edge of the road and the distance specified by this Zoning Law, it shall be determined by the Zoning Officer what appropriate setback will be permitted by new construction or by alterations to existing structures in order to aesthetically blend with existing adjacent structures.
- (2) The varied setback will be based on the average of the setbacks of the two (2) adjacent structures. Any variation requested which is greater variation than that permitted by this rule will require an area variance.

Discussion Point: Recommend removal of the above. Can address "most common setback on the block" as part of the district area tables, if necessary.

§ 26.5 Cluster Residential Development

A. Purpose. The purpose of the procedures, standards, and controls of the cluster residential development is to provide a means to take advantage of natural physical features of an area by permitting reductions in bulk and area requirements for individual lots and providing compensating areas of open space ancillary to dwelling units.

B. Procedure.

- (1) Application for the establishment of Cluster Residential Development shall be made to the Zoning Officer who shall refer the application to the Zoning Board of Appeals and Village Board.
- (2) The Zoning Board of Appeals shall serve as an advisory body, formulating and sending a recommendation to the Village Board within 30 days of referral.
- (3) The Village Board shall assume final review and decision authority, considering, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.
- (4) The Village Board shall approve, approve with conditions, or disapprove such applications. A decision of the Village Board shall be made within 30 days from when all necessary information has been supplied by the applicant.

C. Application Requirements. The Zoning Officer shall require the applicant to submit documentation indicating conformance to all design and improvements required by this Zoning Law. Such documentation shall include, but not be limited to the following:

- (1) Overall development plans drawn to scale showing:
 - a. Exact size, shape, and location of lot to be built upon. Kind, location, occupancy capacity of structures, bulk and uses; general floor plan of

buildings; location and definition of open spaces, street, and all other means for pedestrian and vehicular circulation, parks, recreational areas and other nonbuilding sites; provisions for automobile parking and loading including size, arrangement, and number of spaces and placement of lighting standards; general landscape plan, general location and nature of public and private utilities (including underground utilities) and other community facilities and services (including maintenance facilities).

- b. The movement of all vehicles and ingress and egress drives for all off-street parking and loading areas (both front and rear) to insure the prevention of blockage of vehicles entering and leaving the site; preliminary architectural and engineering sketches showing plan levels, elevation, landscape plan, and any other necessary information related to water runoff control, slope, contour, type of building, etc.; area to be utilized for storage of materials and type of architectural screen to be used.
- (2) Written statement of:
- a. facts concerning the suitability of the site, the proposed density, the location and proposed uses and facilities for development in accordance with the provision of this Zoning Law.
 - b. Purposes showing proposed provisions to be made for services, maintenance and continued protection of the cluster and planned unit development and adjoining territory.
 - c. Disposition of open-space lands and provisions for maintenance and control of the open space land; financial responsibility for such open-space land must be clearly indicated.
 - d. Phasing of construction or timing regarding each development area.
 - e. The applicant shall include such other pertinent information as deemed necessary by the Permitting Board.
- (3) Any such other site, use, or operational information as may be deemed necessary by the reviewing body for a thorough and adequate review.

D. Standards.

- (1) Any owner of not less than five (5) contiguous acres of land located in a district permitting cluster residential development may request in writing that the regulations of cluster residential development apply to their property.
- (2) Uses permitted shall be the uses permitted the district in which the cluster residential development is located.
- (3) The regulations of the district in which the cluster residential development is located shall be observed and maintained with the following exceptions:

- a. The minimum lot area as established in the district in which the cluster residential development is located may be reduced by 20%.
 - b. The minimum lot width at the building line may be reduced by 10%.
 - c. The minimum front yard requirement shall remain the same as required in the district.
 - d. The minimum rear yard may be reduced by not more than five (5) feet where the lot abuts common open space land.
 - e. The maximum lot coverage shall be increased by no more than 5% of the resulting lot area.
 - f. The minimum side yards may be reduced by not more than three (3) feet per side.
- (4) All lots within the planned residential area shall face and be serviced by existing or new streets constructed within the planned residential site boundaries, but shall not face on collector-type or arterial-type streets.
 - (5) Permanent common areas shall be set aside and developed for the common use and enjoyment of all residents of the cluster development and appropriate convenient access shall be provided. Compensating permanent common area shall equal or exceed the total of individual lot area reductions. Compensating permanent common area ancillary to the dwelling units shall consist of all land and recreational facilities held in common by the owners of lots in the cluster development, exclusive of access ways, common parking areas, or other nonresidential areas which may also be held in common; further, such common space shall be of a nature and extent to be of benefit to the residents of the cluster development.

§ 26.6 Topsoil/Excavation

- A. Applicability.** During the construction of a foundation, general landscaping, or any other extensive excavating project; a person, firm, corporation, or their agent shall not strip, excavate, or otherwise remove soil/gravel unless the following conditions are met.
- B. Topsoil.** Topsoil is replenished or left with sufficient amounts to support future development needs.
- C. Steep Slopes.** Steep slopes shall not be created.
- D. Groundwater Runoff.** Runoff will not be caused to flow into neighboring properties, to pool, or cause erosion.
- E. Time Requirement.** The above conditions shall be met within six (6) months from the time the project is completed.

§ 26.7 Unsafe Structures

- A. Purpose and Definition.** The purpose of this section is to identify obvious unsafe structures and through a series of distinct steps eliminate the safety problem in an equitable manner. An unsafe structure shall be defined as any structure which, due to inadequate maintenance, dilapidation, obsolescence, fire/wind, or other similar types of damage becomes structurally unsafe, unsanitary, or in any other way is dangerous to human life. Such unsafe structures shall, for the purpose of this Zoning Law, be declared to be illegal.
- B. Initial Identification.** When a potentially unsafe structure is brought to the attention of the Zoning Officer and Fire Inspector they shall, within a 5-day period, externally inspect the structure and report back to the Village Board as to whether it warrants further examination.
- C. Examination.** After consultation with the Village Board, the Zoning Officer and Fire Inspector shall, if warranted, be authorized to thoroughly inspect the structure in question. The Village Board may also authorize a Building Inspector with appropriate credentials to be retained to assist in the inspection. A written report of the findings shall be submitted to the Village Board and if applicable, the County Health Department shall receive a report also. The Village Board shall evaluate the report and decide what action is necessary to alleviate the problem.
- D. Notification of Owners.** If the report indicates that remedial actions are necessary, the owner(s) of the property shall be notified in writing with the defects listed, the corrective actions necessary and a time schedule for completing the work. The time allowed shall be reasonably set in accordance with the amount of work involved in correcting the problem. The owner may appeal to the Zoning Board of Appeals if they believe the work to be accomplished or the time frame is not appropriate. A public hearing shall be scheduled to hear the variance/interpretation request, with a written decision resulting.
- E. Prohibition of Occupancy.**
- (1) If at any time the Village Board, upon reviewing all reports, determines that there is actual and immediate danger of failure of collapse, health or other serious safety problems which endanger life, they may order the property vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected, and, approved by the Zoning Officer.
 - (2) The Zoning Officer shall post a notice at each entrance stating: "THIS BUILDING UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE ZONING OFFICER."
 - (3) Such notice shall remain posted until the required repairs are made or demolition is complete. It shall be unlawful for any person, firm or corporation, or their agents, or other servants to remove such notice without written permission of the Zoning Officer, or for any person to enter the building except for the purpose of making the required repairs or of demolition of the same.

- F. **Noncompliance.** In case the owner, agents, or person in control cannot be found within a reasonable period of time, or if such owner, agent, or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate, or demolish such building or structure or portion thereof, the Village Board shall be advised of all the facts in the case and shall institute an appropriate action in the courts to compel compliance.

ARTICLE 30. MU-G DISTRICT DESIGN STANDARDS

§ 30.1 Purpose & Intent

A. Purpose.

- (1) The purpose of this Article is to enhance the overall character and image of the Village of Bemus Point through the application of design standards to future development and investment in the Mixed Use - Gateway (MU-G) District.
- (2) These regulations are further intended to guide redevelopment of existing properties and new facilities in a manner compatible with the future development vision of Bemus Point. As development takes place, emphasis should be placed on improving the aesthetics of the site and surrounding area, fostering high-quality investment, and promoting the Village as an attractive place for people to live, work, shop, and visit.

B. Intent. The application of these design standards and guidelines should seek to achieve the following objectives:

- (1) Enhance the visual quality and ‘first impressions’ of the Village’s Main Street gateway;
- (2) Balance the desire for diversity in architectural design, variations in building footprints, and visually interesting façades, with the desire for a cohesive aesthetic between buildings on the same site and/or streetscape;
- (3) Reflect the appropriate and desired building scale and character of the surrounding neighborhood, activity center, and/or corridor;
- (4) Utilize elements, details, styles and architectural features for buildings, sites, and public spaces that enhance the visual appeal of the surrounding area and foster a sense of place;
- (5) Utilize high-quality building materials and avoid prototypical corporate or franchise style architecture to ensure longevity in the life and use of buildings and structures; and
- (6) Encourage the development of buildings consistent with the goals of the Leadership in Energy and Environmental Design (LEED) program.

C. Property Owner Guidance. Property owners should refer to the guidelines and standards of this Article and the supplemental building design standards as a source of inspiration, innovation, and distinctive solutions when undertaking changes, modifications, or adaptive reuse of buildings and properties.

§ 30.2 Applicability

- A. Uses Subject to Regulation.** These design standards shall apply to newly constructed buildings, sites, and structures of the following uses. Modifications to buildings, sites, and structures of the following uses built after the effective date of this Zoning Law shall also conform to these standards.
- (1) Nonresidential uses.
 - (2) Mixed-uses, whether located on the same site or within the same structure.
 - (3) Multi-family dwellings over four units.
- B. Exemptions.** The following shall be exempt from the requirements of this Article:
- (1) Single-, two-, and multi-family dwellings with four or less units. See Article 32 for Residential Design Standards.
 - (2) Civic uses, such as places of worship, schools, museums, and municipal buildings. However, such uses are required to meet the spirit and intent of these standards.
- C. Site Plan Review.** The requirements of this Article shall be applied and approved through site plan review as provided for by Article XX.
- D. Review Body(s).** The terms “review body” or “reviewing body” shall mean the board, committee, commission, or other agent with site plan review authority as duly designated by Article XX.
- E. Flexibility.** Recognizing that the rigidity of these regulations may limit the extent to which development proposals may be sensitive of context and unique site conditions, the standards herein may be waived or modified, in whole or in part, by the reviewing body as part of its site plan review authority. In this regard, a finding must be made by the reviewing body that such waivers or modifications:
- (1) Are in keeping with the intent of this Article and Zoning Law;
 - (2) Offer an innovative development/design solution for the site in question;
 - (3) Are not requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular development plan; and/or
 - (4) Are otherwise compatible with the stated vision and goals of the Village’s Comprehensive Plan and other relevant plans and studies.

§ 30.3 Building Placement, Orientation, Massing, & Form

- A. Placement and Orientation.** Placement refers to how a building is situated on the lot. Orientation refers to the location of a building’s primary façade or main entrance (For example: is a building oriented with its primary façade facing the front/street side of the site or is its primary façade facing the rear/parking lot side of the site). Building

placement and orientation is a crucial part of the interface between building facades with public streets and sidewalks.

B. Massing and Form. Massing and form refer to the volume and shape of a building. Buildings should provide visual interest that engages pedestrians and others to promote activity and business vitality. Wherever possible, new development should enhance the visual quality of the site on which it is located, as well as the character of the surrounding area.

C. General Design Requirements.

- (1) The placement of buildings shall follow the minimum and maximum front yard requirements of the zoning district in which they are located.
- (2) The primary façade is considered side of a building that faces a public street. Buildings that are located on a street corner are considered to have two primary facades.
- (3) All sides of a building shall display a similar level of quality and architectural interest. A building shall have consistent detailing, materials, and proportions on all four elevations to ensure a 'four-sided' architectural quality.
- (4) Buildings situated at street corners should "wrap" the corner by continuing certain facade design elements (such as the cornice or horizontal accent bands) on all street elevations (see Figure 30.1).
- (5) Buildings of two or more stories shall have a transition line. A transition line is a horizontal architectural element, such as a cornice, balcony or change in material, which spans the full width of the façade, and creates a distinction between the first and second stories. Transition lines shall be designed in proportion to the overall height and width of the building (see Figure 30.1).
- (6) All buildings should exhibit a clearly defined base, mid-section, and crown. This can be accomplished using a combination of architectural details, materials, textures, and colors (see Figure 30.2).
- (7) A single, large, dominant building mass shall be avoided. No façade shall have a blank, uninterrupted width exceeding 40 feet without including architectural features such as columns, pilasters, piers, or changes in plane, in texture or masonry pattern, storefronts and entry treatments, or equivalent design element that subdivides the wall into pedestrian-scaled proportions (see Figure 30.2).
- (8) Buildings designed to advertise or promote a uniform corporate image in a manner that may render the building undesirable or unable to reasonably accommodate future uses shall be prohibited (see Figure 30.3).
- (9) The tallest and largest sections of new construction should be located on the street frontage, away from residential properties that often abut commercial or mixed use parcels to the rear.

FIGURE 32.1 – CONTINUOUS FAÇADE ELEMENTS & TRANSITION LINE

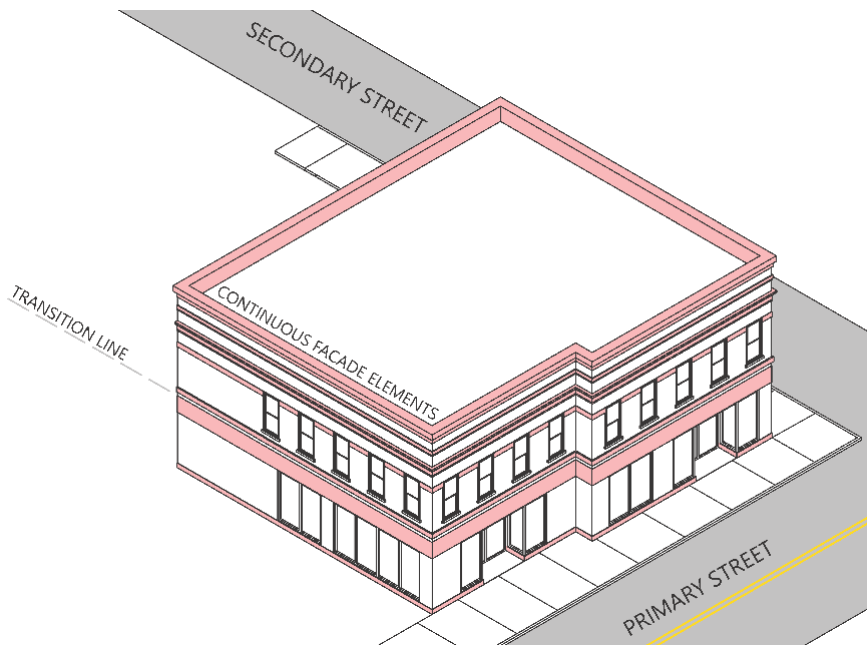


FIGURE 30.2 - BUILDING MASSING & FORM

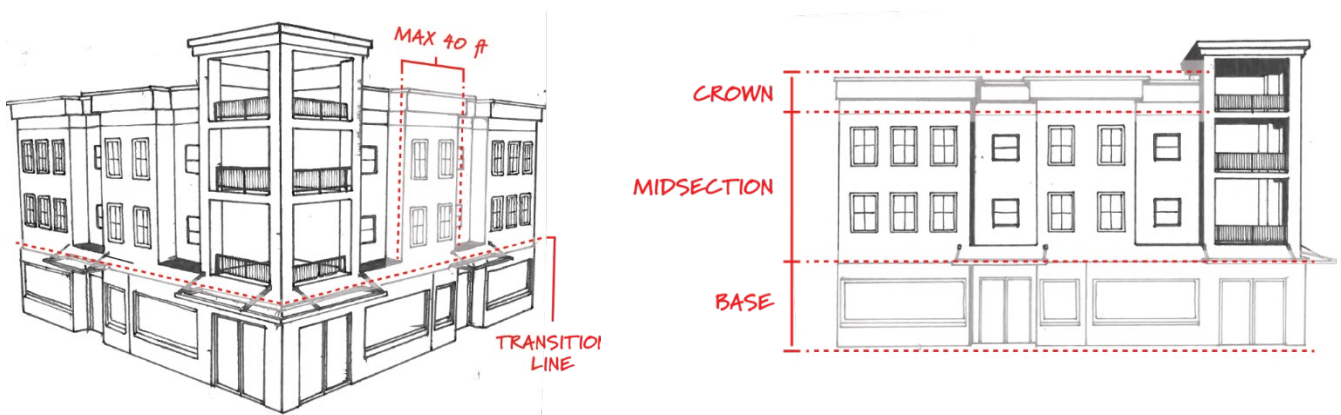


FIGURE 30.3 – CORPORATE ARCHITECTURE

INAPPROPRIATE



APPROPRIATE



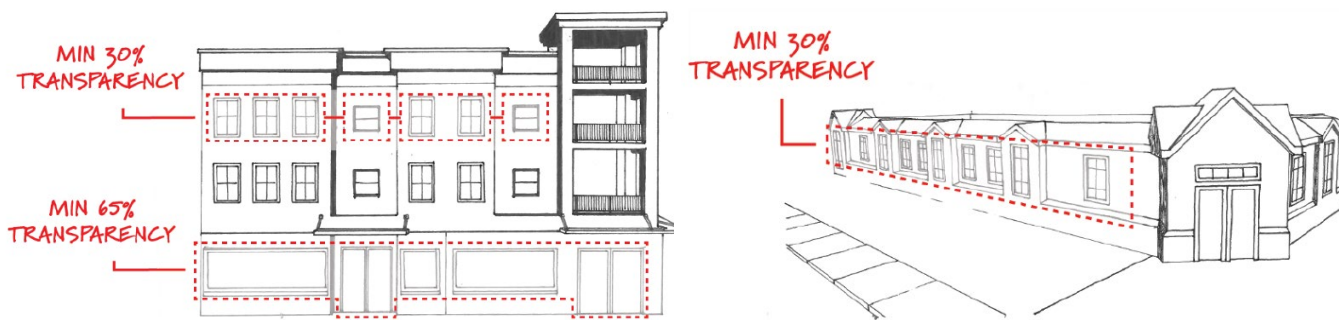
§ 30.4 Façade Composition & Fenestration

- A. Façade Composition.** A building façade serves as the interface between the public realm and the interior space of the building and shall be compatible with the character and context of the surrounding area. Proper façade composition creates visual interest and adds character to a façade; provides visibility into the building interior, particularly for retail uses; and contributes to the pedestrian, bicyclist, and motorist experience throughout the Village. The arrangement of facade elements shall be so designed to create a recognizable and consistent composition.
- B. Fenestration.** ‘Fenestration’ refers to the area of the façade or building exterior covered with openings, in particular windows and doors; how transparent the glass in the openings is; and how the openings are arranged and/or relate to each other with respect to size, depth, location, etc.
- C. General Façade Design.**
- (1) Facade elements such as windows and bays shall be of a consistent proportion to each other. Elements which share a common area (e.g., all of the windows at the base level) shall be of a consistent proportion and size as well.
 - (2) The use of depth is encouraged to highlight facade openings such as windows to create a three-dimensional relief which produces shadows. Windows shall not be mounted flush to the exterior of the facade.
- D. Windows and Doors.**
- (1) The first-floor levels of a facade shall provide the highest amount of façade openings and articulation.

- (2) All primary facades shall observe the minimum transparency requirements in the table below (see also Figure 30.4).

BUILDING / USE	MINIMUM TRANSPARENCY
FIRST FLOOR (Area between Two and Eight Feet above Ground Level)	
<i>Commercial/Mixed Use Building</i>	65% of wall area
<i>Multi-Family Building</i>	35% of wall area
UPPER FLOORS	
<i>All Buildings/Uses</i>	35% of wall area

FIGURE 30.4 – TRANSPARENCY OF FACADES



- (3) Transom windows are encouraged for new construction within the MU-G District.
- (4) The use of plexiglass, spandrel glass panels, opaque, mirrored, or tinted glass with less than 50% light transmittance is prohibited. If screening is necessary, interior blinds or curtains are encouraged. Translucent or colored glass may be used for design details.
- (5) Windows may be grouped or spaced in a logical visual pattern and must relate to window and building column placement on the first floor.

E. Storefronts and Entrances.

- (1) Primary entrances shall face the street and be so located to afford direct access from the sidewalk, where applicable. Entrances for upper floors shall be distinguished from entrances for first floor uses.
- (2) Buildings on corner sites (sites at the intersection of two public streets) may have two separate entry points or a single-entry point at the corner where the two public streets intersect.

- (3) Storefront construction shall be recessed enough at the point of entry to allow the door to swing out without impacting the clear walk dimensional requirements of the Americans with Disabilities Act or further obstructing the sidewalk, where applicable.

F. Awnings and Canopies.

- (1) Awnings or canopies may be permitted over entrances, storefronts, large first-floor windows, and upper-floor windows.
- (2) Awnings and canopies shall be designed to fit the window, door, or storefront openings that they are intended to cover. Placement shall not conceal architectural features.
- (3) Awnings shall be made of low-sheen fabrics with a traditional appearance such as canvas or acrylic. The use of rigid, reflective, neon, and translucent materials or colors is prohibited. Wood, metal, plastic, fiberglass, aluminum, stock metal, rounded or dome-like awnings are prohibited.
- (4) Awnings and canopies shall not be backlit or internally illuminated.
- (5) Awnings may be retractable or fixed and shall be capable of withstanding both high winds and winter snow loads.
- (6) Street-level awnings shall be mounted so that its valance is no less than eight feet above grade.

§ 30.5 Roof Styles & Treatments

A. Context. A roofline is an architectural element, such as a cornice, parapet or change in material, which creates a distinction between the top of the building and the lower floors.

B. Roof Design.

- (1) All structures shall have a distinct, visible roofline.
- (2) Building rooflines should be varied to highlight entrances and bays and otherwise contribute to the visual interest of the building.
- (3) Rooflines shall be designed in proportion to the overall height and width of the building.
- (4) Flat roofs shall slope appropriately to provide proper drainage of snow and rain away from the public right of way and shall include a cornice element.
- (5) Peaked or gable roofs shall be consistent with the placement, size, and patterns of nearby or adjacent structures, where applicable.
- (6) Mechanical equipment that is located on the rooftop shall be effectively screened with parapet walls, decorative fencing and/or gables to eliminate views from the ground level.

C. Sustainable Roof Treatments.

- (1) Roofing materials that reflect sunlight (e.g. lighter colors) or incorporate vegetated roofing are encouraged. Lighter colors decrease heating and cooling needs, while “green roofs” reduce stormwater run-off.
- (2) Where “green roofs” are proposed, the reviewing body may deduct a portion of the “green roof” building from the lot coverage calculations up to 75% of the “green roof” footprint.
- (3) The use of alternative energy materials and systems, such as solar panels or shingles, is encouraged. Their installation shall be incorporated into the design of the building so as not to detract from the architectural style and detailing.

§ 30.6 Materials & Color

A. Materials.

- (1) Building façades shall be constructed of durable materials such as brick, stone, finish masonry, or fiber cement (panels, siding, and trim boards) or finished wood, or their equivalent or better. The most stringent quality standards will be applied to buildings in locations most visible to people in public spaces.
- (2) Prohibited materials include those inconsistent with the surrounding community character, such as stucco, vinyl, fiberglass, plastic panels, sheet metal, clear-coated or corrugated aluminum, iron, stainless steel, mirrored glass, concrete block, or smooth concrete.

B. Color.

- (1) No less than two and no more than three building materials or colors (excluding trim) shall be used on any one façade of a building.
- (2) A single material or color should be used as the dominant theme in the façade, with secondary materials and colors used to highlight and accent the design.
- (3) Florescent, neon, day-glow, primary, pastel, or metallic colors are prohibited.

§ 30.7 Design Transitions Between Nonresidential & Residential Uses

- A. Applicability.** All structures that are nonresidential, mixed use, or multi-family dwellings over four units, shall employ similar building and site design standards to ensure compatibility with adjacent residential development. These requirements shall be applied in addition to the design standards and guidelines of this Article and requirements set forth by this Zoning Law for landscaping, screening, and buffering of uses.

B. Requirements. To the maximum extent practicable, structures that are nonresidential, mixed-use, or multi-family dwellings over four units, shall use all the following techniques when adjacent to a residential use (see Figure 30.5).

- (1) Similar building setback;
- (2) Similar building height;
- (3) Similar roof form; and
- (4) Similar exterior materials.

C. Multi-Family Dwelling Design. Multi-family dwellings over four units shall also be subject to the provisions of Article 32.

FIGURE 30.5 – TRANSITION BETWEEN NONRESIDENTIAL & RESIDENTIAL USES



§ 30.8 General Site Design

A. Site Layout. The layout of all improvements must be designed to generally follow the existing topography of the site. The layout of roads, walkways and building footprints must be aligned with existing contours where practical, with limited connecting streets or walkways aligned perpendicular to existing slopes.

B. Landmarks and Gateways.

- (1) Context. A key element in defining an area as a special space is a gateway that creates a sense of entry, indicating to both drivers and pedestrians that

they are entering a distinct space. Enhancing landmarks and gateways within the Village is a crucial component in strengthening the perception of the downtown and lakefront parks as destinations.

- (2) Sense of Entry. Intersections create natural opportunities for gateways, which can be enhanced through a combination of landscaping, welcome/identity signage, framed views, and focal points. Signage and focal points, if included, must be used in ways that complement rather than obstruct or detract from important views.
- (3) Focal Points. Focal points such as sculpture, fountains, and historic monuments can add interest to an area, making it a more attractive destination. A series of related focal points can also serve as interesting and effective wayfinding tools for connecting different areas. Too many focal points however can register as clutter and detract from the overall character of the village. Focal points must therefore be selected and located carefully in a way that maintains and supports the desired village aesthetic.
- (4) Views. Views to natural and cultural features play an especially large role in shaping the character of waterfront centers. Existing view corridors should be respected and protected. New construction and landscaping must take into account how views may be affected. Protecting and creating views experienced from points of entry to the Village and from designated viewing areas is important.

C. Utilities.

- (1) Electrical, telephone, cable and other utilities must be placed underground whenever possible.
- (2) Any mechanical equipment must be shielded from public view, preferably on the rear of the building.

D. Pedestrian and Bicyclist Accommodations.

- (1) Pedestrian connections shall be designed as integral parts of an overall site design and be properly related to existing and proposed buildings. Separated circulation should be provided to the extent practicable.
- (2) Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (3) Bicycle and walking paths should be parallel to major roadways or driveways and shall form an interconnected network of path facilities within a property or group of properties.
- (4) Wherever practicable, every effort should be made to interconnect on-site pathways to adjacent parks and trails, including the larger regional network of paths.

- E. **ADA Conformance.** All new or reconstructed off-street parking areas and pedestrian and bicyclist access routes shall conform to Americans with Disabilities Act standards and ADA Accessibility Design Guidelines for Public Rights of Way.
- F. **Stormwater Management.** The documents below serve as the official guides and specifications for stormwater management.
 - (1) New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation).
 - (2) New York State Standards and Specifications for Erosion and Sediment Control (New York State Department of Environmental Conservation).
 - (3) Chautauqua Lake Watershed Management Plan.

ARTICLE 31. MU-VC DISTRICT DESIGN STANDARDS

§ 31.1 Purpose & Intent

- A. Purpose.** The purpose of the Mixed Use - Village Center (MU-VC) District Design Standards is to preserve, enhance, and reinforce the historic, pedestrian-oriented character of the Village of Bemus Point while supporting compatible economic development, adaptive reuse, and reinvestment within the Village Center. These standards are intended to guide the rehabilitation, restoration, alteration, and reuse of historic structures and the design of new development so that the unique architectural, cultural, and visual qualities that contribute to the Village's identity are maintained and strengthened.
- B. Intent.** It is further the intent of these standards to:
- (1) Encourage the preservation and continued productive use of historic structures that contribute to the Village's heritage and sense of place;
 - (2) Promote the rehabilitation and adaptive reuse of historic buildings in a manner that retains and protects character-defining architectural features;
 - (3) Ensure that alterations, additions, and site improvements are compatible with the scale, massing, materials, and architectural character of existing historic development;
 - (4) Support a vibrant mixed-use environment that accommodates residential, commercial, civic, cultural, and lodging uses while preserving the traditional village form;
 - (5) Foster walkability, human-scaled design, and an attractive public realm that enhances the experience of residents and visitors;
 - (6) Encourage investment and revitalization that strengthens the economic vitality of the Village Center without compromising its historic character; and
 - (7) Provide clear and predictable design standards that balance historic preservation objectives with contemporary building needs and accessibility requirements.

§ 31.2 Historic Context

- A.** Bemus Point's MU-VC District area possesses a distinctive historic architectural identity that reflects the Village's evolution from an early nineteenth-century lakeshore settlement into a prominent resort and tourism destination on Chautauqua Lake. The area's architectural character is defined less by a single architectural style and more by its collection of modestly scaled commercial, mixed-use, hospitality, and residential buildings that collectively express the traditional development patterns of a historic lakeside village.

- B.** A defining feature of Bemus Point's architectural identity is its relationship to Chautauqua Lake. Unlike many inland commercial districts, Main Street and Lakeside Drive developed as the gateway between the Village, the ferry landing, and the waterfront. As a result, historic buildings were designed not only to serve residents but also to accommodate seasonal visitors arriving by boat, ferry, and later by automobile. This historic connection to transportation, recreation, and tourism remains evident in the scale, orientation, and variety of buildings found within the Village Center.

§ 31.3 Applicability

- A. Uses Subject to Regulation.** These design standards shall apply to the modification, alteration, rehab, reuse, and construction of buildings, sites, and structures in the MU-VC District for the following uses:
- (1) Nonresidential uses, including residential structures converted for noncommercial purposes.
 - (2) Mixed-uses, whether located on the same site or within the same structure.
 - (3) Multi-family dwellings over four units.
 - (4) Civic Uses.
- B. Exemptions.** Single-, two-, and multi-family dwellings with four or less units shall be exempt from these provisions, unless such building has been or is proposed to be converted for nonresidential use. See Article 32 for Residential Design Standards.
- C. Defining Historic Structures.** For purposes of this Article, an "historic structure" shall mean any building, structure, site, or object that is:
- (1) Individually listed on the New York State and/or National Registers of Historic Places;
 - (2) Located within a historic district listed on either the National or State Register; or
 - (3) Determined by the Village, based upon documentation meeting applicable State Historic Preservation Office (SHPO) criteria, to be eligible for listing on the State and/or National Registers of Historic Places.
- D. Site Plan Review.** The requirements of this Article shall be applied and approved through site plan review as provided for by Article XX.
- E. Review Body(s).** The terms "review body" or "reviewing body" shall mean the board, committee, commission, or other agent with site plan review authority as duly designated by Article XX.
- F. Flexibility.** Recognizing that the rigidity of these regulations may limit the extent to which development proposals may be sensitive of context and unique site conditions, the standards herein may be waived or modified, in whole or in part, by the reviewing body

as part of its site plan review authority. In this regard, a finding must be made by the reviewing body that such waivers or modifications:

- (1) Are in keeping with the intent of this Article and Zoning Law;
- (2) Offer an innovative development/design solution for the site in question;
- (3) Are not requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular development plan; and/or
- (4) Are otherwise compatible with the stated vision and goals of the Village's Comprehensive Plan and other relevant plans and studies.

§ 31.4 Rehabilitation & Reuse of Historic Structures

A. Preservation of Character.

- (1) Each property shall be recognized as a product of its own time. Alterations that seek to create a false sense of historical development are discouraged.
- (2) Changes to a building that have taken place over time are evidence of its history and development. Those changes that have acquired significance in their own right shall be recognized and preserved.
- (3) Where architectural or site features are determined to contribute to the character of the property or the district, proposed alterations or additions shall be designed to minimize the impact on those features.
- (4) New additions, exterior alterations, or new construction shall not destroy historic materials or general features that characterize the property. The new work shall be compatible with the massing, size, scale and architectural features of the property and the surrounding neighborhood, to protect the integrity of the property.
- (5) Additions or alterations to structures shall be constructed in such a manner that, if removed in the future, the essential form and integrity of the structure and the site would be unimpaired.
- (6) Design elements on historic structures shall not be altered or covered in a manner that would adversely impact the façade and architectural character of the structure.

B. Preservation, Repair, and Replacement of Openings.

- (1) Original window, storefront, and door openings shall not be reduced in size or covered. Transoms must be retained and uncovered during applicable building renovations.
- (2) Original window, storefront, and door openings that have been covered or filled in on a building façade shall be restored during applicable building renovations.

- (3) Replacement windows shall fill the original size of each opening and be of similar style (ex. double hung) and shall utilize true divided lights or simulated divided lights (i.e. external grids) when matching the original mullion and/or muntin configuration. The use of interior-only grids or grids between the panes of glass is prohibited.
- (4) Lowered ceilings shall have a soffit at each window that allows retention of the full window height.

C. Historic Masonry Treatments.

- (1) Masonry on existing historic structures that has not previously been painted shall not be painted unless deterioration has progressed so far that a protective surface coating is needed. In such cases, a breathable masonry paint or stain shall be used.
- (2) Masonry that has previously been painted shall be repainted with a breathable masonry paint or restored to unpainted masonry.
- (3) If paint is to be removed from masonry surfaces, the gentlest effective paint removal method available shall be employed so as to avoid damage to historic masonry and mortar. Sandblasting and similar methods should never be employed.

§ 31.5 New Construction

Newly constructed buildings in the MU-VC District shall follow the design standards of Article 30, Sections 30.3 to 30.7.

§ 31.6 General Site Design

Site design practices in the MU-VC District shall be in accordance with the design standards of Article 30, Section 30.8.

ARTICLE 32. RESIDENTIAL DESIGN STANDARDS

§ 32.1 Purpose & Applicability

- A. Purpose.** The purpose of these design standards is to:
- (1) Preserve the integrity of the traditional village residential neighborhood character while allowing for the construction of new residential buildings to meet modern living needs.
 - (2) Ensure that the original design and residential integrity of existing structures are maintained over time.
 - (3) Encourage the incorporation of Universal Design practices, increasing the availability of accessible homes.
- B. Applicability.** The following standards shall apply to single-, two-, and multi-family dwellings in any zoning district:
- (1) Modification, alteration, or expansion of existing residential buildings;
 - (2) Conversions of residential structures to a nonresidential use, where permitted; and
 - (3) Construction of new buildings designed exclusively for residential use, including single-, two-, and multi-family dwellings.

§ 32.2 General Residential Design Standards

- A. Site Context and Orientation.**
- (1) New construction and modifications to dwellings shall respect the integrity of the existing, abutting residential structures through consistency in location on the lot, scale, and materials. This may include, but is not limited to:
 - a. Similar building setback;
 - b. Similar building height;
 - c. Similar spacing between buildings;
 - d. Similar landscaping treatments; and
 - e. Similar exterior materials.
 - (2) Taller portions of residential structures should be located away from adjoining residential properties, to provide height transitions between taller and lower buildings and to maximize light, air, and privacy for units. This may include the use of setbacks for upper floors.

- (3) The building shall be oriented to the primary street upon which the structure is sited.
- (4) All building fronts shall have a primary pedestrian access (i.e. a front door) that provides pedestrian connections between main entrances and sidewalks, including connectivity to the existing sidewalk network, where applicable.

B. Facades and Windows.

- (1) Windows shall be un-tinted. Mirror or reflective glass is prohibited.
- (2) All street facing facades shall have a minimum transparency of 20%.

C. Garages. Garages shall be located at least five (5) feet behind the front building line of the primary structure. On corner lots, this standard shall only apply to the designated front yard.

D. Architectural Variety. Where more than four homes are proposed in a residential development, the following shall apply:

- (1) Developments shall achieve architectural variety by accommodating a variety of architectural styles, variations of the same architectural style, and/or through the use of multiple design elements (see Figure 32.1).
- (2) Duplicative, “cookie-cutter” house designs adjacent to each other are prohibited. Simple reverse configurations of the same house design on adjacent lots are not sufficient to meet architectural variety goals.
- (3) The minimum required number of varied façade elevations shall be based on the number of buildings in the proposed development:

Number of Buildings	MIN Façade Elevations
2-4	2 variations
5-9	3 variations
10 - 19	4 variations
20 or more	5 variations

FIGURE 32.1 – RESIDENTIAL FAÇADE VARIATION

SOURCE: www.housingdesignmatters.com

§ 32.3 Multi-Family & Mixed Residential Developments

- A. Purpose.** The purpose of this section is to ensure proposed mixed density and multi-family developments provide for a gradual transition in density where abutting existing single-family neighborhoods. To achieve this, the following regulations address the compatibility of residences and other improvements through their arrangement, bulk, form, character, and landscaping.
- B. Areas Abutting Single-Family.** Where a new multi-family and mixed residential development directly abuts or is within 100 feet of existing single-family properties, the following regulations shall apply. See Figures 32.2 and 32.3 for examples.
- (1) **Density.** The density of residential development on their own lot shall be limited to:
 - a. Single-family dwellings, attached or detached; and/or
 - b. Two-family dwellings.
 - (2) **Lot Width.** The arrangement and width of lots shall be similar to that of the abutting properties, with no more than a 20 foot reduction in lot width.
 - (3) **Streetscape Amenities.** All new development shall provide sidewalks and street trees both in areas abutting existing neighborhoods as well as throughout the development site. See Article 33 (Circulation, Access, & Parking) for sidewalk standards and Article 34 (Landscaping & Screening) for street tree standards.
- C. Landscaped Buffer Option.** Where a proposed development provides a buffer of at least 100 feet in width, and no less than 25 feet between the property line and building within

such buffer area is visually screened with existing natural vegetation at least six (6) feet in height and deed restricted to protect said visual screening, the requirements above shall not apply.

D. Requirements Applicable to All Developments.

- (1) Buildings shall be laid out so that the primary entrances face the street or side yard. Each entrance shall be connected by sidewalk to the Village's sidewalk system, where applicable.
- (2) Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be located in a manner that does not disturb or encroach upon the public realm of the site (pedestrian walkways, roadways, etc.).

FIGURE 32.2 – MIXED RESIDENTIAL DEVELOPMENT TRANSITION EXAMPLE



FIGURE 32.3 – MIXED RESIDENTIAL DEVELOPMENT BUFFER EXAMPLE



§ 32.4 Infill Residential Development

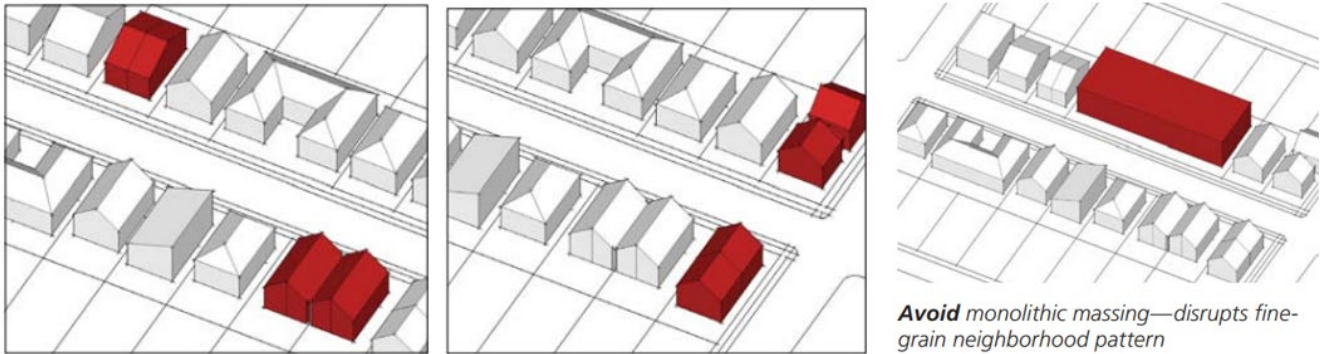
A. Street Frontage. The street frontage characteristics of the infill development shall be compatible with that of abutting properties. See Figure 32.4. This shall include the following:

- (1) A similar setback, which is no more than five (5) feet in front of or behind the front building line of the abutting properties.
- (2) A similar building rhythm to the block on which it is located. This includes consistent spacing between buildings of adjacent existing properties as well as similar building widths.
- (3) Use of greenery and landscaping in the lawn area and provision of street trees, where applicable.
- (4) Strong connections between main entrances and sidewalks, including connectivity to the existing sidewalk network, where applicable.

B. Building Design. See Figure 32.5 for examples.

- (1) The height of an infill development building of two or more stories shall be within 10% of the average building height of the buildings immediately surrounding the site.

- (2) Windows and entrances on the side and rear of the structure shall be located so as to minimize impacts to the privacy of neighboring properties. (e.g. windows not directly facing that of adjacent dwellings).
- (3) The massing and form of infill buildings shall be designed to minimize solar access impacts on adjacent properties. This may include the use of stepbacks for upper floors.

FIGURE 32.4 – RESIDENTIAL FAÇADE VARIATION

SOURCE: Infill Design Toolkit – Portland, OR

FIGURE 32.5 – EXAMPLES OF LOW DENSITY RESIDENTIAL DESIGN

Two- to
Three-
Family
Dwellings



Four-Family
Dwellings



Multi-
Family
(5+)
Dwellings



ARTICLE 33. CIRCULATION, ACCESS, & PARKING

§ 33.1 Purpose & Intent

A. Purpose. The purpose of this Article and intent of its regulations is to ensure that all development that includes parking and internal driveways/drive aisles, proposes a new private or public street shall be designed for:

- (1) Safe and logical vehicle access, traffic control, and circulation;
- (2) Safe and logical pedestrian and bicycle access and circulation;
- (3) Access for firefighting, snow removal, and street maintenance equipment;
- (4) Stormwater drainage; and
- (5) Utility location.

B. Intent. The provisions of this Article are also intended to help protect the public health, safety, and general welfare by furthering the following objectives:

- (1) Protect the users of adjacent properties from nuisances caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles;
- (2) Minimize further expansion of impervious surfaces within the Village and reduce loss of green space;
- (3) Facilitate the implementation of sustainable design practices and development of green infrastructure to protect natural resources and improve the Village's resiliency in the face of climate change;
- (4) Help to avoid and mitigate traffic congestion, traffic hazards, and vehicle and pedestrian interaction; and
- (5) Encouraging multi-modal transportation options and enhanced pedestrian safety.

§ 33.2 Applicability

A. The term "vehicle," as used in this Article, shall include, but not be limited to automobiles, motorcycles, trucks, recreational vehicles, campers, trailers, golf carts, and electric bikes.

B. No site plan shall be approved and no permit shall be issued for the erection or occupancy of a building or structure unless the use conforms to the requirements of this Article.

- C. For any off-street parking facility as required by this Article, a layout plan showing entrances, drives and parking stalls, drainage, and snow storage and removal provisions shall be submitted as part of site plan review.
- D. Off-street parking and loading spaces shall be provided and kept available as an accessory use to all permitted and specially permitted uses of buildings, structures, and lots.
- E. Areas that may be considered as off-street parking space include any private garage, carport or other area available for parking other than a street, entrance or exit lane, vehicle, pedestrian, or bicycle accessway, or driveway.
- F. The provision and maintenance of private off-street parking areas is a continuing obligation of the property owner.

§ 33.3 Residential Off-Street Parking

- A. Off-street parking and driveways for single-, two-, and multi-family dwellings up to four units shall conform to the following:
 - (1) Parking is prohibited on grass and yard space that is not hard-surfaced and properly designated for such use.
 - (2) Off-street parking may be permitted in the front yard, provided all spaces are located on an approved driveway.
 - (3) The storage of junk vehicles, heavy vehicles, and recreational vehicles and trailers shall be in accordance with Section 33.10.

§ 33.4 Off-Street Parking Minimums

A. Determination of Requirements.

- (1) The requirement for a single use (e.g. a retail store) shall be determined directly from this Section. The requirements for a combination of uses made up of multiple permitted or specially permitted uses (e.g. a retail store with an office building) shall be determined by establishing the requirement for each single use and adding them together, unless otherwise provided for in this Article.
- (2) If the use is not specifically listed in the schedule of such requirements, the requirement shall be the same as the most similar listed use, as determined by the Zoning Officer.
- (3) Any use requiring ½ or more of a parking space shall require the full space.
- (4) The maximum number of parking spaces allowable for any use is not to exceed 125% of the minimum requirement, unless otherwise approved as part of site plan review. The need for additional parking must be

demonstrated by a professional analysis and determined not to create adverse impacts to neighborhood character, quality of life, or environment.

- (5) The minimum parking requirement may be reduced as part of site plan review if the applicant can make permanent arrangements for shared parking in accordance with §33.5(D) or can otherwise prove that the parking standards are excessive for the use.
- (6) The minimum parking requirement may be increased as part of site plan review if it is deemed necessary to protect the health, safety, and general welfare of the public.

B. Mixed Use - Village Center (MU-VC) District. There shall be no minimum parking requirements for existing development within the VC District. New development shall provide off-street parking spaces in accordance with the following table:

LAND USE	MINIMUM SPACES (MU-VC District)
Residential	1 per dwelling unit
Lodging	1 per room
Other	3 per 1,000 square feet of gross floor area

- C. **All Other Districts.** Off-street parking spaces shall be provided in all districts, except in the MU-VC District, in accordance with the following table:

LAND USE	MINIMUM SPACES
RESIDENTIAL	
Single- or Two-Family Dwelling	2 per dwelling unit
Multi-Family Dwelling	1 per dwelling unit
Upper Floor Dwelling Unit	1 per unit
Bed & Breakfast / Short-Term Rental	1 per bedroom
COMMERCIAL	
Retail Operation	3 per 1,000 square feet ²
Service Operation	2 per 1,000 square feet ²
Restaurant, Bar, or Tavern	4 per 1,000 square feet ²
Office, Administrative or Professional	2 per 1,000 square feet ²
Office or Clinic, Medical	3 per 1,000 square feet ²
Lodging	1 per guest room + 0.5 per employee ¹
Other Commercial Use	3 per 1,000 square feet ²
OTHER	
School / Daycare	1 per classroom + 1 per employee ¹
Public Use / Place of Public Assembly	0.5 per occupant, based on max occupancy
Home Occupation	As required for dwelling ⁴

NOTES:

1. Based on the maximum shift.
2. As measured by the gross floor area of the primary structure of the proposed use.
3. 18 linear inches of pews, benches, or other similar seating shall be counted as one seat.
4. No more than 2 additional spaces shall be allowed.

§ 33.5 Parking Arrangement Alternatives

- A. **Alternatives Consideration.** The following alternative arrangements may be employed to satisfy off-street parking requirements, conditional of site plan review approval.
- B. **On-Street and Municipally Owned Parking.** On-street and municipally owned parking spaces may be used to satisfy up to 20% of the requirements for off-street parking provided such spaces are no more than 1,000 feet from the use.
- C. **Parking Demand Analysis.** The number of off-street parking spaces required for any use may be adjusted with the completion of a parking demand analysis by the applicant. When parking will be shared with other functions, the parking demand analysis may be used to determine the sharing factor. Such analysis shall include, at a minimum:

- (1) An estimate of the number of spaces needed to accommodate the proposed use;
- (2) A summary and map of the proposed location and/or configuration of spaces (on site, public lots, on street, etc.);
- (3) A market study and/or other supporting information and rationale behind the requested number of parking spaces; and
- (4) An analysis of existing parking conditions in the surrounding area, to include a radius of at least 500 feet.

D. Joint & Shared Parking Facilities.

- (1) Benefit. Joint and shared off-street parking areas that extend across property lines are encouraged as parking can be more efficiently organized between uses in larger areas, resulting in more parking capacity with less land devoted to parking.
- (2) Joint Parking. Joint off-street parking areas by two or more buildings or uses located on the same lot or adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately. The land upon which the joint parking spaces are located shall be owned or leased by one or more of the collective users.
- (3) Shared Parking. Shared off-street parking areas for two (2) or more uses that are located on the same lot or adjacent lots is permitted, provided they have differing peak parking demands or operating hours. Shared parking areas shall conform to the following:
 - a. The minimum number of spaces provided is at least that of the use with the greatest parking requirement.
 - b. The parking area is located within 1,000 feet of the building(s) or use(s) it is intended to serve.
 - c. The applicant demonstrates that the uses have different peak hour parking demands or that the total parking demand at one time would be adequately served by the total number of parking spaces proposed.
 - d. A Shared Parking Agreement is executed documenting the shared uses and property owners and must be reflected in a deed, lease, contract, easement or other appropriate legal document.
 - e. A Maintenance Agreement is executed documenting the responsibility of each user in the maintenance and upkeep of said shared parking facilities.

§ 33.6 Parking Location Requirements

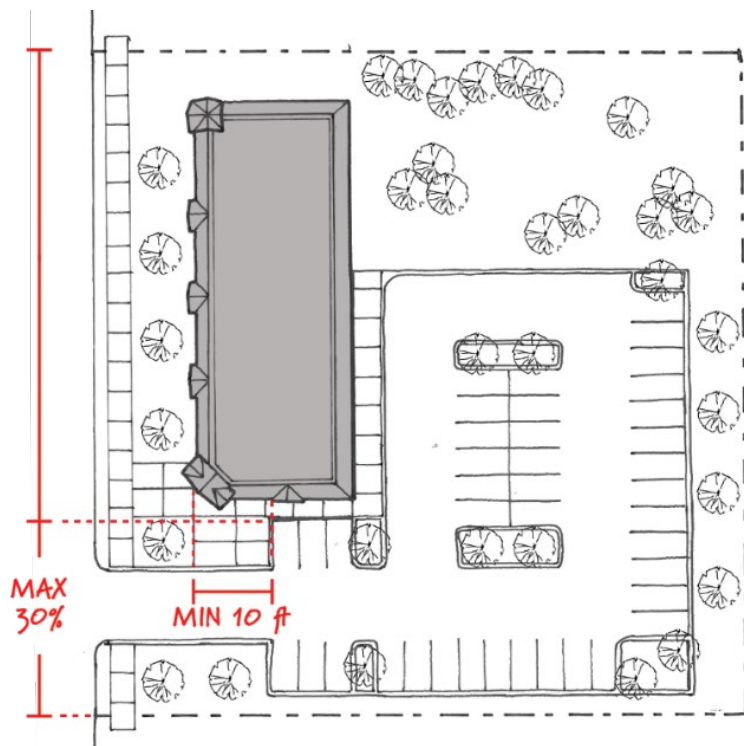
A. Location in All Districts.

- (1) Off-street parking and loading spaces are prohibited in the front yard in all districts. However, parking in front yard space shall be allowed for single-, two-, and multi-family dwellings up to four units on an approved, designated driveway.
- (2) Off-street parking and loading spaces are prohibited within fifty (50) feet of the lakeshore in all districts.

B. Side Yard Parking. Side yard parking is prohibited in the MU-VC District. Parking areas located in the side yard may be permitted in the MU-G District when in compliance with the following standards:

- (1) The overall width of the parking area frontage does not exceed 30% of the lot width (see Figure 30.1).
- (2) The paved parking area is at least 10 feet behind the front building line. Where no primary structure is provided on a lot, the parking area shall meet the minimum setback requirements or be located at least 10 feet behind the front building line of an adjacent property, whichever is greater (see Figure 33.1).
- (3) The parking area is screened from the public right-of-way with landscaping or other visual buffer measuring at least three, but no more than five (5) feet in height.

FIGURE 33.1 SIDE/REAR YARD PARKING



- C. **Special Restrictions.** Parking and loading spaces shall never be located at the corner of any street, in front of any building, or between a building and the public right-of-way.
- D. **Same Lot Requirement.** All off-street parking and loading spaces shall be on the same lot as the use they are intended to serve unless otherwise permitted by this Article.

§ 33.7 Parking Design Requirements

A. Materials and Markings.

- (1) All spaces shall be hard surfaced with dustless material and shall be maintained in smooth and well-graded condition. Such surface shall be permanent and capable of being kept free of snow, dust, and dirt.
- (2) The use of pervious pavement material is highly encouraged. Areas comprised of permeable pavement shall be excluded from the calculation of maximum lot coverage.

B. Landscaping and Screening.

All off-street parking and loading areas shall be landscaped and screened in accordance with Article 34.

C. Lighting.

All off-street parking and loading areas shall be illuminated in accordance with the requirements of Article 36.

D. Grading and Stormwater.

All spaces and their access driveways shall be graded so as to provide for the proper mitigation of stormwater and runoff.

E. ADA Conformance.

All new or reconstructed off-street parking areas must conform to Americans with Disabilities Act standards.

F. Snow Removal.

All off-street parking areas must include a dedicated area independent of required parking and loading spaces for the placing and storage of snow.

G. Dimensions.

- (1) Off-street parking space and aisle dimensions shall be in conformance with the table below:

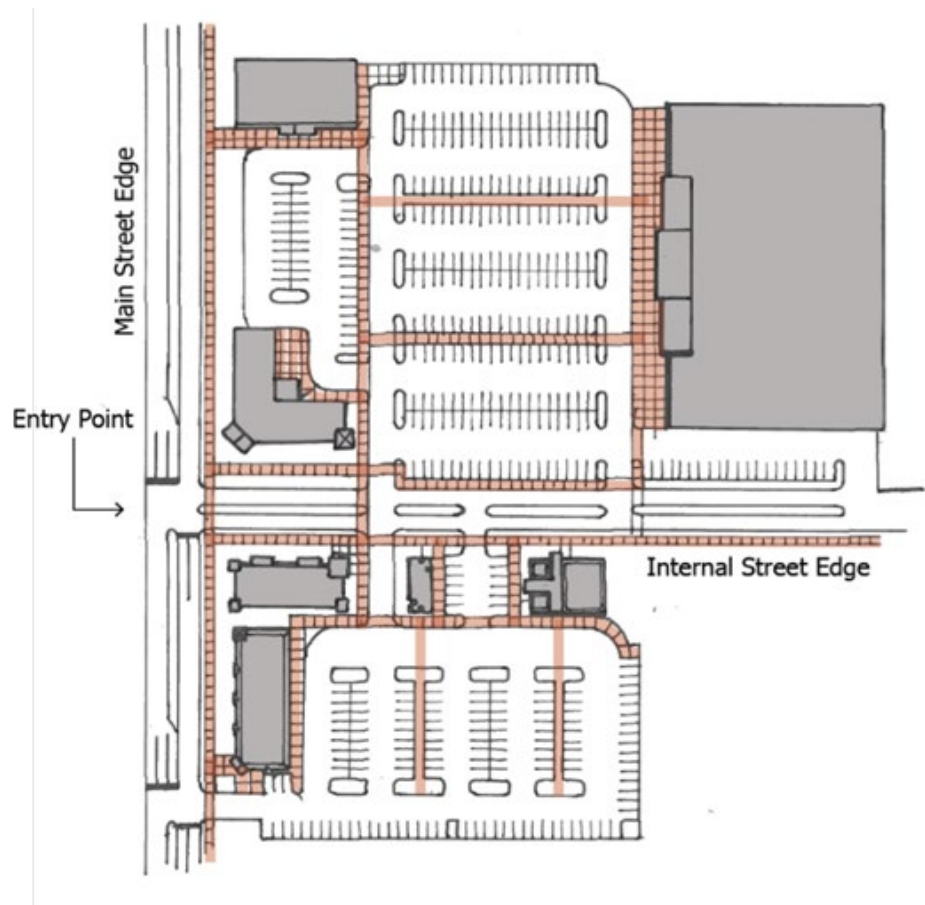
ANGLE OF PARKING SPACE	WIDTH (FEET)	LENGTH (FEET)
90 Degree	9 MIN	18 MIN
60 Degree	9 MIN	18 MIN
45 Degree	8 MIN	18 MIN
180 Degree (Parallel)	8 MIN	22 MIN

- (2) Aisles intended for the maneuvering of vehicles within parking areas shall be no more than 24 feet in width.

§ 33.8 Bicycle & Pedestrian Accommodations

- A. Bicycle Parking.** The provision of bicycle parking is required with all multi-family and nonresidential development at a rate of at least 10% of vehicle parking requirements or one space, whichever is less.
- B. Pedestrian Connectivity.**
- (1) Off-street parking areas of five or more spaces shall include a clearly identified pedestrian network from the parking spaces to building entrances and uses on site. Pedestrian connections to the public sidewalk shall also be required, where applicable (see Figure 33.2).
 - (2) Sidewalks shall be provided for the full length of all street frontages on a lot.
 - (3) Applicants should cooperate with adjoining properties in creating a pedestrian network with mid-block connections, public courtyards and small plazas.
 - (4) Crosswalks should highlight points of potential conflict between vehicles, pedestrians and bicyclist with signs, changes in texture or color, pavement materials, etc.

FIGURE 33.2 ON & OFF-SITE PEDESTRIAN CONNECTIVITY



§ 33.9 Access Management & Driveways

A. Location Requirements.

- (1) Direct vehicular access driveways and curb cuts to public streets shall be minimized to the greatest extent practicable. Curb cuts and driveways to nonresidential uses shall be spaced a minimum of 50 feet apart. Minimum spacing is to be measured from the closest edge of the driveway to the closest edge of the nearest driveway on the same side of the street.
- (2) No access road or driveway shall be located closer than 40 feet to the intersection of public streets.
- (3) All driveways, access roads, and buildings shall have designated pedestrian walking paths providing connections between entrances and existing sidewalks.
- (4) Access from side streets rather than arterials should be obtained when possible to maintain mobility and minimize conflict points. The development of secondary access roads behind developments is encouraged, where feasible.

B. Design Requirements.

- (1) The minimum and maximum width of an access driveway shall be determined by the table below:

LAND USE	REQUIRED WIDTH (FEET)	
Single- or Two-Family Dwelling	10 MIN	16 MAX
Other – One Way Access	10 MIN	16 MAX
Other – Two Way Access	20 MIN	24 MAX

- (2) No more than two driveways shall be permitted to a single lot entering/exiting on one street.
- (3) No driveway shall be approved with a sight distance of less than 150 feet in any direction.
- (4) A traffic study or analysis completed by a licensed engineer may be required to support design considerations and/or to validate the mitigation of any traffic impacts associated with the development of a street or driveway.

§ 33.10 Storage of Vehicles

A. Junk Vehicles.

- (1) Number of Junk Vehicles Allowed. A maximum of one (1) junk vehicle shall be allowed to be maintained out-of-doors on a temporary basis for up to 6 months if in compliance with Subsection 2 below.

- (2) Locational Requirements. All junk vehicles shall be situated on the parcel so as to be not visible from any adjacent parcels of land or from adjacent roadways. A fence shall be permissible means of hiding a junk vehicle while a tarp or other similar device shall not be permissible.
- (3) Restoration of Junk Vehicles. Restoration of one (1) junk vehicle (including antiques and other rare vehicles) shall be allowed under the following conditions:
 - a. Vehicle shall be restored for personal use only.
 - b. Vehicle shall be in an enclosed structure during the entire restoration.
 - c. Noise and other nuisances associated with the restoration shall be limited to reasonable hours.
- (4) Preexisting Junk Vehicles. All junk vehicles existing at the effective date of this section shall be brought into compliance with this section within six months from the date of notification by the Zoning Officer of a violation.

B. Heavy Vehicles. Parking of heavy vehicles, such as automobile wreckers, commercial trailers, semi-trailers, or any vehicle or truck with dual wheels (4 wheels mounted on the rear axle), shall comply with the following conditions:

- (1) Conditions. The parking of heavy vehicles shall be permitted unless it can be shown that there will be a nuisance associated with the vehicle primarily due to its close proximity to residential uses, frequency of parking, time of day and noise.
- (2) Where Prohibited. Parking of heavy vehicles in residential districts or the P District is prohibited.
- (3) Preexisting Uses. All heavy vehicles which were previously parked in violation of this section shall comply with this section within 90 days of the effective date of this Law.

C. Recreational Vehicles and Trailers.

- (1) All recreational vehicles/trailers, etc., shall be stored in the rear yard and shall not be stored in a front yard. Nor shall they be allowed to become a nuisance.
- (2) All area requirements of the district in which the vehicle is stored shall be met.
- (3) Recreational vehicles and trailers intended to be stored for a period exceeding six (6) consecutive months shall be located wholly within an enclosed structure.
- (4) All vehicles covered by this section shall be in conformance with the regulations of this section one year from the effective date of this Law.

ARTICLE 34. LANDSCAPING & SCREENING

§ 34.1 Purpose

The landscaping, buffering, and screening regulations of this Article are intended to:

- A. Preserve and promote the existing Village character and property value through protection from visual intrusion by inconsistent forms of development;
- B. Ensure greater compatibility between land uses with different characters;
- C. Minimize the impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on, or created by, an adjoining or nearby use;
- D. Promote a healthy environment by providing shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff management, erosion control, and reductions in noise, glare, and heat island effects;
- E. Facilitate the implementation of sustainable design practices and development of green infrastructure to protect natural resources and improve the Village’s resiliency in the face of climate change; and
- F. Encourage the preservation of existing trees and vegetation that offer environmental, aesthetic, habitat, sustainability, and economic benefits to the Village and its citizens.

§ 34.2 Applicability

- A. **Uses Subject to Regulation.** All nonresidential, mixed-use, and multi-family development that is otherwise subject to site plan review shall meet the requirements of this Article.
- B. **Site Plan Review.** The requirements of this Article shall be applied and approved through site plan review as provided for by Article XX.
- C. **Review Body(s).** The terms “review body” or “reviewing body” shall mean the board, committee, commission, or other agent with site plan review authority as duly designated by Article XX.
- D. **Flexibility.** Recognizing that the rigidity of these regulations may limit the extent to which development proposals may be sensitive of context and unique site conditions, the standards herein may be waived or modified, in whole or in part, by the reviewing body as part of its site plan review authority. In this regard, a finding must be made by the reviewing body that such waivers or modifications:
 - (1) Are in keeping with the intent of this Article and Zoning Law;
 - (2) Offer an innovative development/design solution for the site in question;

- (3) Are not requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular development plan; and/or
- (4) Are otherwise compatible with the stated vision and goals of the Village's Comprehensive Plan and other relevant plans and studies.

§ 34.3 Landscape Plans

A. Landscape Plan Required.

- (1) Whenever landscaping is required to be provided, a landscape plan shall be submitted and approved as a part of the site plan review process.
- (2) The reviewing body may require that the Landscape Plan shall be prepared and stamped by a New York State Licensed Landscape Architect, authorized to practice landscape architecture in accordance with New York State Law.

B. Plan Requirements. The landscape plan(s) shall include:

- (1) A legend, plant list, key, a scale drawn to a minimum of one inch to 40 feet, north arrow;
- (2) Existing and proposed site grading;
- (3) Existing and proposed structures and uses;
- (4) Parking areas, drives, and access aisles;
- (5) Refuse disposal areas/dumpsters;
- (6) Outdoor storage areas;
- (7) Drainage patterns;
- (8) Provisions for visual and noise screening;
- (9) Street tree branching for any shade trees placed within street ROW's, parking lots, or within 15 feet of a publicly maintained roadway, parking area or walkway;
- (10) The name of the project, the address of the property, the owner and the developer of the property; and
- (11) The plan preparer's appropriate professional stamp and signature.

C. Planting Specifications. The landscape plan shall delineate the location and description of all existing and proposed trees, shrubs and plantings. To ensure proper protection of plantings and planted areas, landscape materials to be used on the site shall be identified in a planting schedule to be included on the landscape plan or submitted as a separate document with the following information:

- (1) Type;

- (2) Common and botanical names;
 - (3) Size;
 - (4) Quantity; and
 - (5) Pit or bed treatment.
- D. The landscape plan shall include all existing plant materials that are to be removed from the site and such other information as may be required by the reviewing body.
- E. Landscape plans should include a variety of trees, shrubs, and ornamental planting (annuals and perennials) as part of the site design. The mixing of trees and shrubs helps to avoid a uniform, unnatural appearance, and to protect against extreme loss due to disease or infestation.
- F. Upon approval of the landscape plan by the Village, the property owner agrees to install and perpetually maintain the approved landscape design and materials for the duration of the approved use.
- G. All landscaped areas approved by the Village shall be preserved according to the landscape plan, or as amended. Flora that dies shall be replaced within the next planting season with materials of a similar nature.

§ 34.4 Landscape Design

- A. The arrangement and spatial location of landscaped areas shall be designed as an integral part of the site development and disbursed throughout the site and not just located around the perimeter.
- B. Planting in an irregular line with random spacing is generally preferred, although more formal plantings may be used if they are a part of an overall planting scheme or site design.
- C. Landscape plantings should be designed to stage blooms and have color throughout the growing season.
- D. Ornamental lighting and street furnishings may be incorporated within approved landscaped areas as part of site plan review.

§ 34.5 Appropriate Plant Materials

- A. **Existing Vegetation.**
 - (1) Existing vegetation and mature trees shall be saved to the greatest extent possible during construction and thereafter.
 - (2) Existing vegetation and trees that are retained will be considered on a one-to-one basis with required planting.

- (3) New plantings, where existing vegetation is used as part of the required landscaping, shall be compatible with the existing landscape in character and type.

B. Native Plants.

- (1) All grasses, trees, and plant material shall be in accordance with those appropriate for the Plant Hardiness Zone of the Village of Bemus Point as defined by the United States Department of Agriculture.
- (2) The use of native plant species is encouraged.
- (3) Under no circumstance shall any site include plant material that is considered by the NYSDEC to be a prohibited and regulated invasive species per NYS Law 6 CRR-NY V C 575.

C. Plant Specifications.

- (1) The size and character of all trees and shrubs shall be in accordance with the provisions of the American Standard for Nursery Stock, (ASNS) latest edition.
- (2) Trees must be a minimum of 1.5 inches in caliper when planted.
- (3) Shrubs must be a minimum of 18 inches in height when planted.

§ 34.6 Landscaping Areas

- A. General Ground Cover.** All unimproved areas of a lot shall be landscaped with an appropriate balance of trees, conifers, shrubs, ornamental plantings, and lawn area to create a naturalized appearance on the site.

B. Lawn Area.

- (1) Grass areas shall be planted in a species well adapted to localized growing conditions in Chautauqua County, New York. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- (2) In areas where other than solid sod or grass seed is used, over-seeding shall be sown for immediate effect and protection until coverage is otherwise achieved.
- (3) Grass areas shall also provide continuous, uniform, and consistent coverage.

C. Building Foundation Landscaping.

- (1) A mix of landscape plantings shall be installed around all building foundations.

- (2) Plant material shall be placed intermittently against long expanses of buildings walls, fences, and other barriers to soften the effect and to help break-up walls.
- (3) Ornamental plant material, such as flowering trees and shrubs, perennials, and ground covers are encouraged.
- (4) Plantings should decrease in size and increase in detail, color, and variety near entryways into buildings.

D. Street Trees.

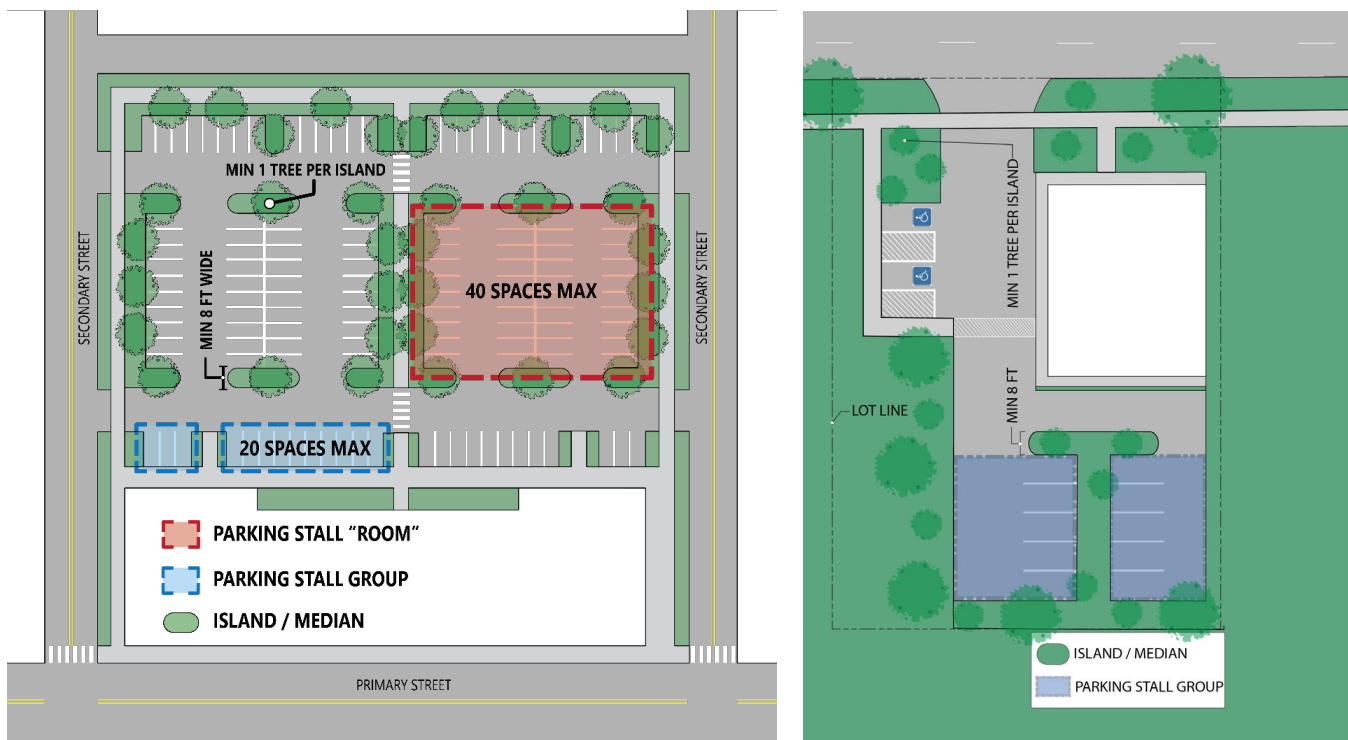
- (1) Street trees shall be planted no greater than five (5) feet from the property line along the entire length of a lot adjacent to a public right-of-way.
- (2) Spacing of the trees shall be consistent with the mature size of the trees. A minimum of one street tree shall be installed for every 30-feet of public right-of-way frontage.
- (3) The following conditions are exempt from this requirement:
 - a. Frontages along alleys;
 - b. Where the minimum required number of street trees is already installed and in healthy condition;
 - c. Where the planting of new trees would overcrowd and compromise the health of existing trees;
 - d. Where an underground utility, driveway, or other feature interferes with the placement of a tree;
 - e. Where the planting of a tree would result in less than 5-feet of sidewalk width for unobstructed pedestrian movement;
 - f. Where otherwise not permitted by the state, county, or Village department with jurisdiction over the right-of-way.

E. Off-Street Parking (see Figure 34.1).

- (1) Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.
- (2) Parking lots containing 10 or more spaces shall be planted with at least one tree per eight spaces. Each tree should be located within a landscaped island or median. Large and medium shade trees (no less than eight feet in height at maturity) are recommended.
- (3) Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended in parking areas.

- (4) Landscaped islands should be utilized in parking areas to separate parking stalls into groupings of not more than 20 spaces between islands.
- (5) Parking lots should be broken up into “rooms” of no more than 40 spaces, separated by landscaped islands or pedestrian accessways or sidewalks.
- (6) The dimensions of all islands and medians proposed should be a minimum of eight feet wide at the shortest side to protect plant materials and ensure proper growth. Landscaped islands should be protected with concrete curbing.
- (7) Each median or island should include at least one tree. Low shrubs and ground covers will be required in the remainder of the landscaped area.

FIGURE 34.1 PARKING LOT LANDSCAPING



- (8) Green infrastructure for on-site stormwater management shall be integral to parking lot landscaping (See Figure 34.2).

FIGURE 34. PARKING LOT GREEN INFRASTRUCTURE



§ 34.7 Buffers

The provisions for buffers are intended to separate and shield negative impacts of adjacent land uses and shall be approved by the reviewing board.

- A.** A buffer strip 10 feet in width shall be provided upon all non-residentially zoned lots which abut a residentially zoned lot at the side or rear lot line. This buffer strip may be included within the required side or rear yard.
- B.** No parking area, building, or other structure or paved area except walks, walls or fences shall be permitted in any buffer strip.
- C.** No storage or display of goods shall be permitted in any buffer strip.

- D. Buffer strips shall include solid fencing and/or live, healthy vegetation of at least five feet in height.
- E. Each buffer strip shall be planted with at least two trees and/or shrubs every 10 linear feet. The remainder of each buffer strip shall be landscaped in grass, ground cover, other vegetation or a walk, wall or fence.
- F. The reviewing board shall require and approve buffers and screening as it determines to be necessary.

§ 34.8 Screening Requirements

A. Parking Lot Screening.

- (1) Parking shall not be located within 10 feet of any residential district or use, except where fully screened by a solid wall or fence at least six feet in height, in which case no setback shall be required.
- (2) Where parking is located 10 feet from a residential district or use, the perimeter shall be landscaped with ground cover, low shrubs or flowering plants, and shade trees shall be planted at intervals of not more than 25 feet.
- (3) Parking areas must also be screened along lot lines bordering institutional or residential uses. Such screening shall consist of a landscaped area at least six feet wide, densely planted with a mixture of trees and shrubs to create an effective visual barrier. All trees shall be a minimum of 1.5-inch caliper (trunk diameter) at the time of planting.

B. Dumpster Screening.

- (1) This Section applies to all commercial dumpsters, trash containers, refuse receptacles, or garbage cans. This shall exclude temporary dumpsters necessary for any approved construction project.
- (2) All dumpsters shall be screened from public view in accordance with the following:
 - a. Dumpster screening shall include a combination of landscaping and fencing or similar enclosures.
 - b. Dumpsters shall be secured with gates. Gates shall be and kept closed when not in use.
 - c. Dumpster enclosures must be equal to or taller than the dumpster being screened.
 - d. Dumpsters shall be located behind the front building line within the rear or side yard of a lot on a paved surface.

C. Mechanical Equipment Screening.

- (1) This Section applies to all exterior mechanical equipment, including, but not limited to, electrical boxes or heating, ventilation, and air conditioning systems, associated with a commercial, industrial, or multi-family use over four units.
- (2) All mechanical equipment shall be located out of and/or screened from public view.
- (3) Mechanical equipment located at ground level must be effectively screened with vegetation, low berms, or others measures that are equal to or taller than the equipment being screened.
- (4) Mechanical equipment that is located on the rooftop shall be effectively screened with parapet walls, decorative fencing and/or gables to eliminate views.

§ 34.9 Maintenance

- A. The owner of the property, or a designated agent, shall be responsible for the proper care and maintenance, and replacement if necessary, of all landscape materials in a healthy and growing condition.
- B. Maintenance shall include but not be limited to watering, weeding, mowing, fertilizing, treating, mulching, trimming, removal or replacement of dead or diseased plants and removal of refuse and debris on a regular basis so as to continue a healthy growing condition and present a neat and well-kept appearance at all times.
- C. All landscaping and plant material that is missing, dead, decaying, or injured shall be replaced by spring of the following year at the owner's expense. The replacement shall be of the same species and size unless otherwise approved by the Zoning Officer.
- D. Provisions for snow removal and snow storage must not adversely impact landscaped areas. Any area damaged as the result of snow removal or storage activities must be fully restored in accordance with the approved landscaping plan within the next planting season.
- E. Improper maintenance shall be determined through periodic inspection by the Zoning Officer. The Zoning Officer may require a review and status report of plantings by a professional landscaper, arborist, or engineer. All reasonable costs for such review and determination shall be at the expense of the property owner.
- F. Maintenance deficiencies shall be remedied by the property owner within 30 days of written notice by the Zoning Officer. A reasonable extension to this compliance period may be granted by the Zoning Officer where seasonal limitations or other external factors may warrant such extension. Should the property owner fail to remedy all noticed maintenance deficiencies in the required timeframe, the Village may cause for the remedy of all deficiencies. All associated costs will be documented and reimbursed by the applicant upon Village request.

- G.** The owner and occupant of property upon which a buffer strip is located shall maintain the buffer strip in such a manner as to preserve its intended appearance.
- H.** All fences shall be maintained by the property owner as to meet the original design specification.
- I.** Plantings required pursuant to this Section shall not be removed without the approval of a site plan amendment by the reviewing body.

ARTICLE 35. SIGNS

§ 35.1 Purpose & Applicability

A. Purpose. The purpose of this Article is to permit the use of signage within the Village of Bemus Point, while also promoting and protecting the health, welfare, and safety of the public. The intent of this Article is to achieve the following objectives:

- (1) Ensure right to free speech as protected under the United States Constitution;
- (2) Establish a clear and impartial process for those seeking to install signs;
- (3) Protect property values, create a more attractive economic and business climate, and protect the physical appearance of the community;
- (4) Provide structures and uses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
- (5) Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way; and
- (6) Reduce the adverse effects of signage on the desirable aesthetic of the Village and on the general environment of the community.

B. Applicability.

- (1) The regulations of this Article shall govern and control the erection, enlargement, expansion, renovation, operation, maintenance, relocation and removal of all signs within the Village visible from any street, sidewalk, public right-of-way, or public space.
- (2) The provisions of this Article shall not apply to safety signs, road signs, historical markers, highway directional signs, trail markers and wayfinding, or signs erected by governmental agencies or public service entities.
- (3) This Article shall not prohibit the customary holiday decoration of premises in any district.

§ 35.2 Sign Permits

A. Permit Required. A sign permit shall be required for certain sign types in accordance with §35.12.

B. Exceptions. Regardless of sign type, the following situations shall not require the issuance of a sign permit provided such maintenance, changes, or alterations do not in any way alter the physical size, design, or nature of the sign.

- (1) Repainting, repairing, changing of parts, or ordinary maintenance of signs, sign area, or sign supports.
 - (2) Changing the message of a sign.
- C. Alteration.** Any sign for which a permit has been issued shall not be modified, relocated, altered, or replaced, unless an amended or new sign permit is obtained from the Zoning Officer.
- D. Expiration.** A sign permit shall expire if the sign for which the permit has been issued is not fully constructed within 180 days from the date of issuance of the sign permit.
- E. Revocation.** The Zoning Officer may, at any time for a violation of this Article, issue a notice of violation. A written notice of the violation including all reasons for the violation shall be mailed to the property, building, and/or sign owner. Said violation must be corrected within 30 days of the date of notice, otherwise the sign permit shall be revoked and the sign in question shall be required to be removed.

§ 35.3 Application Requirements

A. Application Submittal.

- (1) Sign applications shall not be processed until all required materials have been submitted to the Zoning Officer.
- (2) Incomplete applications will not be processed. The Zoning Officer shall provide written or electronic notice of application deficiencies to applicants. If such deficiencies are not corrected within 30 days of said notice, the application will be considered withdrawn.
- (3) Complete applications for signs that require Zoning Board of Appeals review shall be submitted to the Zoning Officer at least 10 business days prior to the Zoning Board of Appeals meeting at which such application is to be considered.
- (4) In the event a sign permit application is denied, the Zoning Officer shall issue a written notice to the applicant indicating the findings of the denial. If the application is not amended and resubmitted within 30 days of said written notice, it shall be considered withdrawn.

B. Application Requirements. The following information shall be provided in all applications for a sign permit. The Zoning Officer may require application materials to be prepared by a licensed engineer or sign professional if deemed necessary for adequate review of the proposed sign.

- (1) Name, address, contact information, and signature of the applicant.
- (2) Name, address, and signature of the building and/or property owner (if not the applicant), and a statement of consent for the applicant to seek such sign permit.

- (3) All application fees as determined by the Village Board and maintained in the Village's Fee Schedule.
- (4) Site plan and elevations indicating the size, shape, construct, materials, layout, and proposed location of the proposed sign(s) drawn to scale.
- (5) Photos of the site or building upon which the sign is to be located.
- (6) Color illustrations and/or photos of the proposed sign and sign area.
- (7) Proposed illumination system, if any, and the type of lighting to be used.
- (8) Plan for removal of the sign(s) and restoration of the building façade, ground, or other feature to which the sign(s) is proposed to be attached.
- (9) Samples of sign materials shall be required for all applications under review by the Zoning Board of Appeals.
- (10) Any additional information as requested by the Zoning Officer or Zoning Board of Appeals that is deemed necessary for the adequate review of the proposed sign.

§ 35.4 Review Procedures

A. Review by Sign Type.

- (1) Any application containing proposed changes to an existing sign shall be subject to administrative review by the Zoning Officer.
- (2) Applications for newly proposed signs that are not associated with a development application shall also be reviewed administratively by the Zoning Officer.
- (3) Signs associated with development applications subject to review and approval by the Zoning Board of Appeals shall be reviewed as a part of the site plan review and/or special use permit review process.

B. Administrative Review Procedures.

- (1) The Zoning Officer may approve, approve with modifications, or deny a sign application under administrative review. The Zoning Officer shall render their decision within 30 days of receipt of a complete application.
- (2) The Zoning Officer may refer any sign application to the Zoning Board of Appeals where it is determined that a higher level of discretion is necessary to evaluate the application based on the review criteria of Subsection D below. In the event of such referral, the Zoning Board of Appeals shall assume review and final decision authority.
- (3) A sign permit shall only be issued by the Zoning Officer when it is determined that the sign complies with the requirements of this Zoning Law and all other applicable local, state, and federal laws and ordinances.

C. Zoning Board of Appeals Review.

- (1) The Zoning Board of Appeals may approve, approve with modifications, or deny a sign permit application. The Zoning Officer shall issue a sign permit within 30 days of approval by the Zoning Board of Appeals.
- (2) All required sign permit application materials shall be provided to the Zoning Board of Appeals as part of the site plan review and/or special use permit application.

D. Review Criteria. The review of sign permit applications by the Zoning Officer and Zoning Board of Appeals shall be based upon the following criteria:

- (1) The scale, color, texture and materials of the sign will be compatible with the style, color, texture and materials of the building on which it is located, or site thereof, as well as compatible with neighboring buildings;
- (2) The sign is neither confusing nor distracting, nor will it create a traffic hazard or otherwise adversely impact public safety;
- (3) The sign will promote an attractive and walkable Village environment;
- (4) The sign follows the design guidelines outlined in Section 35.9 to the greatest extent practicable; and
- (5) The sign is otherwise compliant with this Zoning Law.

§ 35.5 Measurement**A. Sign Area.**

- (1) Single Sign Face. The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or geometric combination thereof that will encompass the extreme limits of the writing, representation, emblem, graphic, and/or other display, together with any material, backdrop, or structure on which it is placed. See Figures 35.1 and 35.2.
- (2) Multi-Faced Signs. In the case of a multi-faced sign only one side of the sign is considered in determining sign area if the sides of the sign are back-to-back or diverge at an angle of 45 degrees or less.

FIGURE 35.1 SINGLE SIGN FACE AREA**FIGURE 35.2 INDIVIDUAL LETTER SIGN AREA****B. Sign Height.**

- (1) Freestanding Sign. The height of a freestanding sign shall be calculated by measuring the vertical distance between the top part of such sign or its structure, whichever is highest, to the elevation of the ground directly beneath the center of the sign. See Figure 35.3.
- (2) Other Signs. The height of an awning, projecting, suspended, wall, or window sign shall be determined by measuring the vertical distance between the top part of the sign face or structure, whichever is highest, to the bottommost edge of the sign face.

FIGURE 35.3 FREESTANDING SIGN



§ 35.6 Location

- A. No sign shall be posted on public property or within a public right-of-way without express approval by the Village Board or the Village Board's duly designated official.
- B. No sign shall be placed on a curb, sidewalk, hydrant, utility pole, tree, or other object located on or over any public street unless otherwise permitted by this Article.
- C. No sign shall be erected at or near any intersection of streets, alleys, or railways in a manner that obstructs free and clear vision for pedestrians, bicyclists, and motorists.
- D. No sign shall be erected in such a manner as to obstruct free egress from a window, door, or fire escape, or to become a menace to life, health, or property.
- E. No sign shall obscure, alter, or cover the architectural features of any building.
- F. All freestanding signs, unless otherwise noted within this Article, shall be no closer than three (3) feet from the inner edge of the public sidewalk or 10 feet from the inner edge of the public roadway, whichever is greater.

§ 35.7 Construction

- A. All signs shall be constructed of permanent, weather resistant, and durable materials, except for temporary signs otherwise in conformance with this Article.
- B. Where applicable, signs shall be supported by sign structures that are designed to resist wind pressures, dead loads, and lateral loads in accordance with the appropriate provisions of the NYS Building Code. All sign supports shall be reviewed as part of the sign design.
- C. No sign may be constructed of untreated, unfinished, or unpainted wood, sandblasted metal, or other unfinished materials. All wood components of signs must be sealed and protected from the elements.

§ 35.8 Illumination

- A. Sign electrical elements may be subject to inspection and approval by the Zoning Officer for conformance with the National Electrical Code (NEC) and all other applicable building codes.
- B. In no event shall any illuminated sign or lighting device be placed so as to direct the beams and illumination therefrom upon a public street, highway, sidewalk or adjacent premises that would cause glare or reflection that may constitute a traffic hazard or nuisance.
- C. All lighting fixtures shall be dark sky compliant and directed downward on the sign face. Permitted lighting fixtures include, but are not limited to, lanterns, goosenecks, and shielded spotlights.
- D. Sign illumination shall be provided by LED light sources only, unless otherwise permitted by this Article.
- E. All illumination shall be a steady, continuous burning of bulbs or lights. The flashing, blinking, oscillating, rotating or intermittent turning on and off is prohibited.
- F. Reverse channel lettering may be utilized in districts where illumination is permitted.

§ 35.9 Sign Design Guidelines

The following sign design guidelines are intended to provide applicants, the Zoning Officer, and the Zoning Board of Appeals with guidance for best practices in addressing issues related to sign compatibility, legibility, placement, and color.

A. Compatibility.

- (1) Signs should be constructed of high quality materials that are compatible with the building form and the desired character of the area in which they are located.
- (2) Signs should be appropriately scaled for the building or site upon which they are located, so as not to dominate the façade or streetscape.
- (3) Signs on buildings that have a monolithic or plain façade should be used to create visual interest through appropriate sign design features, scale, and proportions.
- (4) Signs should be designed to include relief in the lettering or sign face to create shadows and provide depth and visual interest.

B. Legibility.

- (1) Hard to read, intricate typefaces should be avoided.
- (2) Letters and words should not be spaced too closely together.

- (3) Large areas of blank spaces should be avoided. Generally, 50% or more blank area should be avoided for boxed sign areas or framed signs.
- (4) Strangely shaped or unnecessarily narrow signs should be avoided. If an unusual shape is not symbolic it is more likely to be confusing.

C. Placement.

- (1) Signs should be so located to respect and compliment a building's façade, utilizing logical signage areas created by existing architectural details or ornamentation.
- (2) Signs should be placed at or near the public entrance to a building to indicate the most direct access.
- (3) Signs located on a building façade should be located in the sign board area.

D. Color.

- (1) Signs should feature substantial contrast between the color and material of the background and text or symbols.
- (2) Sign colors should complement the materials and colors of adjacent buildings, including accent and trim colors, where applicable.
- (3) Use of color and color combinations utilized for signs should be limited. Generally, a sign should not utilize more than three colors, including accent colors.
- (4) Day-glo or fluorescent colors are prohibited.

§ 35.10 Allowable Signs by Zoning District

A. Sign Types. The following table indicates the sign types permitted by zoning district.

- (1) A "●" indicates that the sign type is permitted and may be illuminated.
- (2) A "○" indicates that the sign type is permitted but may not be illuminated.
- (3) A "-" indicates that the sign type is not permitted.

ZONING DISTRICT	R-1, R-2, R-3	MU-VC	MU-G	P
Signs Not Requiring a Permit ¹				
A-frame	-	○	○	○
Directional	○	○	●	○
Incidental	○	○	○	○
Lawn	○	○	○	○
Neon	-	●	●	-
Temporary	○	○	○	○
Window	-	○	○	○
Signs Requiring a Permit				
<i>Maximum # of Sign Types ¹</i>	<i>1 per use</i>	<i>2 per use</i>	<i>2 per use</i>	<i>1 per use</i>
<i>A-frame, in public right-of-way ¹</i>	-	○	○	-
Awning	-	○	○	-
Ground	○	●	●	●
Projecting	-	●	●	-
Suspended	-	●	●	-
Wall	○	●	●	●

NOTE: 1. Signs not requiring a permit shall not count towards the maximum number of signs per use.

§ 35.11 Signs Not Requiring a Permit

A. A-Frame Sign. A freestanding sign that is comprised of two sign faces diverging at an angle of no more than 45° from their adjoining edge. A-frame signs shall also be subject to the following:

- (1) The sign shall not interfere with vehicular, pedestrian, or bicycle access or visibility.
- (2) There shall be no more than one (1) a-frame sign per use and the sign shall not exceed 25 inches in width, 45 inches in height, and eight (8) square feet in area.

- (3) A-frame signs must be brought inside when the associated use is not in operation.
- (4) In the MU-VC and MU-G Districts, a-frame signs may be located in the public right-of-way with the issuance of a sign permit. The approved location of the sign shall be noted on the sign permit.

B. Directional Sign. A freestanding sign commonly associated with and limited to noncommercial information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way driveways, rest rooms, pickup and delivery areas, and the like. Directional signs shall also be subject to the following:

- (1) No single sign shall exceed three feet in height and six square feet in area.
- (2) The cumulative area of all directional signs on the lot shall not exceed six square feet in a residential district or 12 square feet in a nonresidential district.
- (3) No directional sign shall extend above the first floor of any given structure or project beyond property lines.

C. Incidental Sign. A sign containing no commercial message and typically attached to a building to identify addresses, entrances, exits, restrooms, hours of operation, emergency addresses and telephone numbers, etc. These examples are not given by way of limitation. An incidental sign can contain any noncommercial message in accordance with this Zoning Law. Incidental signs shall also be subject to the following:

- (1) In Residential Districts. There is a maximum of one incidental sign per property. No single sign shall exceed two feet in height and three feet in area.
- (2) In Nonresidential Districts. No single sign shall exceed two feet in height and three feet in area. The cumulative area of all incidental signs on a building or site shall not exceed six square feet.

D. Lawn Sign. A sign constructed of materials not intended for permanent installation that is attached to a single or multiple posts for support and stuck into the ground. The height of a lawn sign shall include any posts or supports. Political campaigns, garage sales, and charitable events, for example, are often advertised with lawn signs. Lawn signs shall also be subject to the following:

- (1) No single sign shall exceed two feet in height and six square feet in area.
- (2) The cumulative area of all lawn signs on the lot shall not exceed 12 square feet.
- (3) At no time shall there be more than two (2) lawn signs on any lot.
- (4) No sign shall be displayed for more than 60 days in a 120-day period.

- E. Neon Sign.** A sign that incorporates illumination by neon-type gas in tubing or linear LED. Neon signs shall also be subject to the following:

- (1) Neon signs shall be limited to the interior of a building window area.
- (2) There shall be no more than one sign per window, covering no more than 25% of the window area.

- F. Temporary Sign.** A sign which is not intended to be used for a period of time exceeding 90 days and is not attached to a building, a structure, or the ground in a permanent manner. Temporary signs shall also be subject to the following:

- (1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	1 per use	1 per use	1 per use	1 per use
<i>Max Area</i>	10 sf	24 sf	32 sf	24 sf
<i>Max Height</i>	3 ft	4 ft	6 ft	4 ft

- (2) No sign shall be displayed for more than 60 days in a 120-day period.
- (3) The display of a sign may be extended for an additional 60-day period upon written request to the Zoning Officer setting forth the special circumstances requiring such extension.

- G. Window Sign.** A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within three feet of the window except for customary window display of products. Window signs shall not obscure or cover more than 25% of the window area.

§ 35.12 Signs Requiring a Permit

- A. Awning Sign.** A sign that is part of or attached to an awning, limited to the valence area only. Awning signs shall also be subject to the following:

- (1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	-	1 per awning	1 per awning	-
<i>Max Area</i>	-	50% of valence area	50% of valence area	-
<i>Max Height</i>	-	-	-	-
<i>Min Ground Clearance¹</i>	-	9 ft	9 ft	-

NOTE: 1. Measured from the elevation of the ground directly beneath the center of the awning to the bottommost edge of the awning.

- (2) Awning signs shall be permitted on first-floor awnings only.
- (3) Where a single use has more than one awning, each awning sign shall match in color and style.

B. Ground Sign. A type of freestanding sign that is mounted on a base flush with the ground or supported by one or two columns or posts where the distance between the ground and bottommost edge of the sign is no greater than two feet. Ground signs shall also be subject to the following:



- (1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	1 per lot	1 per lot	1 per lot	1 per lot
<i>Max Area</i>	10 sf	24 sf	32 sf	24 sf
<i>Max Height</i>	3 ft	4 ft	6 ft	4 ft

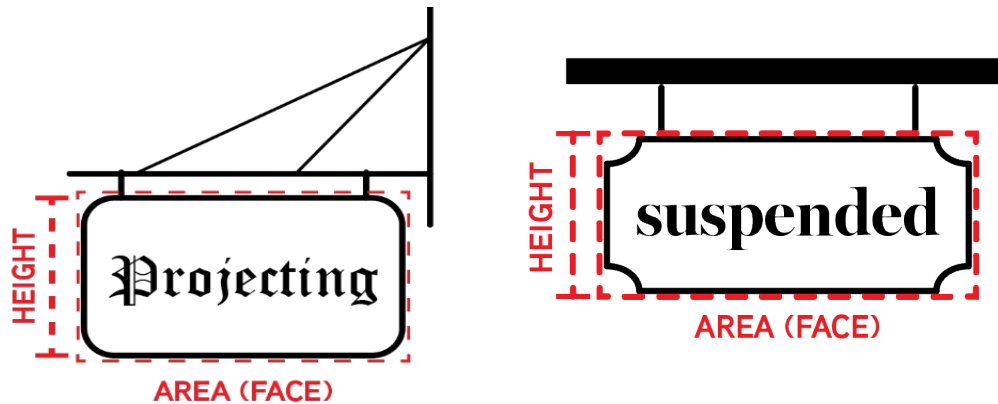
- (2) All ground signs shall have a landscaped area at the base of the sign. The landscaping shall fully surround the sign and utilize appropriate plantings so as not to obscure the visibility of the sign.
- (3) All plantings shall be properly manicured and maintained as the season may require. Dead or decaying plant material shall be replaced by the sign owner within 30 days of written notice by the Zoning Officer.

C. Projecting Sign. A sign which is wholly dependent upon a building for support and which projects more than 12 inches from such building face. Projecting signs shall also be subject to the following:

- (1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	-	1 per use	1 per use	-
<i>Max Area</i>	-	6 sf	8 sf	-
<i>Max Height</i>	-	2 ft	3 ft	-
<i>Min Ground Clearance¹</i>	-	9 ft	9 ft	-

NOTE: 1. Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign area.



D. Suspended Sign. A sign attached to and supported by the underside of a horizontal plane. Suspended signs shall also be subject to the following:

(1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	-	1 per use	1 per use	-
<i>Max Area</i>	-	6 sf	8 sf	-
<i>Max Height</i>	-	2 ft	3 ft	-
<i>Min Ground Clearance¹</i>	-	9 ft	9 ft	-

NOTE: 1. Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign area.

E. Wall Sign. A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project outward more than 12 inches from such building or structure. Wall signs shall also be subject to the following:

(1) Requirements by District.

	R-1, R-2, R-3	MU-VC	MU-G	P
<i>Max Number</i>	1 per building	2 per façade	2 per façade	1 per building
<i>Max Sign Area</i>	6 sf	24 sf	32 sf	24 sf
<i>Max Area, Total</i>	-	32 sf	50 sf	-
<i>Max Height</i>	3 ft	6 ft	6 ft	6 ft

§ 34.10 Additional Signage for Developments

- A. Unique Development Configurations.** Due to the unique identification needs of residential and multi-tenant commercial developments, additional signage may be permitted in accordance with the table below.

CONFIGURATION	PERMITTED SIGN TYPES & STANDARDS
Single- or Multi-Family Residential Development	
<i>Per Driveway Entrance</i> ¹	One ground sign, no more than 16 sf in area and 3 ft in height.
Campus Style Development	
<i>Per Driveway Entrance</i> ¹	One ground sign, no more than 32 sf in area and 6 ft in height.
Mixed-Use or Multi-Tenant Commercial Development	
<i>Per Use or Tenant</i>	Up to 2 different sign types in conformance with §35.12.
<i>Per Driveway Entrance</i> ¹	One ground sign not exceeding 32 sf in area and 6 ft in height.
Multi-Story, Mixed-Use, or Multi-Tenant Commercial Building	
<i>Per First-Floor Use</i>	Up to 2 different sign types in conformance with §35.12.
<i>All Upper Floor Uses</i>	One shared sign in conformance with §35.12.

NOTE: 1. The additional signage shall only apply to entrance points from public streets.

- B. Coordinated Sign Plans.** Coordinated sign plans shall be required for newly proposed multi-tenant developments in accordance with the following.

- (1) The purpose of this plan is to detail the standards for uniformity which the development proposes to live up to, and to state the manner in which the design criteria and standards for uniform sign set forth in this section shall be met.
- (2) Building permits for signs for individual businesses within the development (and therefore subject to the coordinated sign plan) shall be approved by the Building Inspector following coordinated sign plan approval.
- (3) All signs shall conform to the approved coordinated sign plan on file with the Village. It shall be the responsibility of the owner of the development to ascertain that the most updated version is on file for purposes of this article.

§ 35.13 Prohibited Signs

- A.** The following sign types are prohibited in the Village of Bemus Point:

- (1) Internally Illuminated Signs (e.g. Cabinet Signs), except for signs utilizing reverse channel lettering.
- (2) Pole Signs.

- (3) Roof Signs.
- (4) Pennants, Streamers, Teardrop Signs, Flutter Flags, Banners, Spinners, Balloons, or Inflatables.
- (5) Digital Signs or Signs utilizing digital or video motion technology.
- (6) Off-premise Signs or Billboards.

B. In addition, signs with the following characteristics are prohibited:

- (1) Any sign for which no sign permit was issued, for which a sign permit was revoked, or any other sign not explicitly authorized herein.
- (2) Any sign that may be confused with a traffic control sign, signal or device or the light of an emergency or road equipment vehicle or any sign which hides from public view any traffic or street sign, signal, or device.
- (3) Any sign that is mounted on wheels.
- (4) Any sign that flashes, blinks, rotates, or revolves, or utilizes unshielded lighting devices, mirrors, or reflectors to outline or provide the background of a sign.
- (5) Any sign that emits audible sounds, odor, or visible matter.
- (6) Any sign that is obsolete or abandoned, advertising an activity, event, business, product, or service no longer conducted or available.
- (7) Any sign that is not properly maintained, considered structurally unsound, hazardous, or otherwise unsafe.

§ 35.14 Maintenance & Repair

- A.** All signs shall be maintained in safe and good structural condition, in compliance with all applicable building and electrical codes, and in conformance with this Article at all times.
- B.** Such maintenance includes replacement of all defective bulbs, parts, materials, painting, repainting, cleaning, replacement of copy, and other acts required for maintenance of such sign.
- C.** If any sign does not comply with these standards, the Zoning Officer may require its removal.

§ 35.15 Removal of Signs

- A.** Any sign that becomes obsolete, meaning the business, product, service, event, or other such topic to which it relates ceases operation or is no longer applicable, must be removed within 30 days of such termination. An extension may be granted by the Zoning Officer upon written request by the sign owner.

- B.** The removal of signs shall be the sole responsibility of the sign owner and/or sign permit holder. If said sign is not removed within 30 days of the date of written notice by the Zoning Officer, the Zoning Officer is authorized to effect its removal.
- C.** The removal of signs shall include the removal of all sign elements and related structural supports, returning the building, site, or structure to its original state.
- D.** The Zoning Officer may remove any sign that is found to be in violation of this Zoning Law. The property and/or sign owner shall subsequently be given written notice of such sign removal. If the sign is not claimed within 10 days of written notice, the Zoning Officer may dispose of said sign.
- E.** Any costs incurred for the removal of a sign shall be fully reimbursed to the Village of Bemus Point by the sign owner and/or sign permit holder upon written request of the Zoning Officer.

ARTICLE 36. OUTDOOR LIGHTING

§ 36.1 Purpose & Intent

- A. Purpose.** The purpose of this Article is to provide regulations for exterior lighting to achieve the following objectives:
- (1) Allow for the provision of exterior lighting as needed for visibility, security and as an accent to architectural and/or landscape features.
 - (2) Permit the use of exterior lighting that does not exceed the minimum levels specified in the International Dark Sky Association and the Illuminating Engineering Society of North America recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.
 - (3) Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.
 - (4) Curtail light pollution, reduce skyglow and improve the nighttime environment.
 - (5) Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.
 - (6) Conserve energy and resources to the greatest extent possible.

§ 36.2 Applicability

- A. Uses Subject to Regulation.** These regulations shall apply to all exterior lighting on any nonresidential or mixed use property.
- B. Residential Property Compliance Encouraged.** Although exempt, exterior lighting on residential properties is strongly encouraged to be directed away from neighboring properties and follow the International Dark Sky Association guidelines, particularly with respect to shielding and light temperature, to reduce nuisances such as glare and light trespass.
- C. Site Plan Review.** The requirements of this Article shall be applied and approved through site plan review as provided for by Article XX.
- D. Review Body(s).** The terms “review body” or “reviewing body” shall mean the board, committee, commission, or other agent with site plan review authority as duly designated by Article XX.
- E. Building Inspector Review.**
- (1) To ensure that site lighting does not adversely affect neighboring properties, the Building Inspector shall have the authority to require changes to the on-

site lighting fixtures to reduce and minimize glare and the splaying of light at the property lines and to assure continuous compliance with this section.

- (2) Such changes may include, but are not limited to, lower lumens emitting from bulbs, lower temperature bulbs, the addition of shields to deflect light, and changes to the angle of the fixtures or shields.
- (3) Failure to implement the changes as directed by the Building Inspector shall be a violation of this Zoning Law.

§ 36.3 Lighting Plan

A. Lighting Plan Specifications. Where required by the reviewing body, lighting plans shall be submitted to as part of the site plan review process. At a minimum, lighting plans shall include:

- (1) The number, location, mounting height, aiming point, and type of proposed lighting fixtures.
- (2) Shielding method proposed to cut-off direct light to adjacent properties.
- (3) Manufacturer specification sheets, cut sheets or other manufacturer provided information indicating the specifications for all proposed lighting fixtures, including lamp style, bulb types (Incandescent, Fluorescent, Low--Pressure Sodium, LED, etc.), lumens, and wattage for each proposed light source.
- (4) Computer-generated photometric grid showing footcandle readings every 10 feet within the property or site and 10 feet beyond the property lines. Iso-footcandle contour-line style plans are also acceptable (Refer to 36.5 A).
- (5) If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the luminance levels of the elevations, and the aiming point for any remote light fixture.

B. Additional Information. Following the initial lighting plan review the reviewing body may request additional information or lighting plan materials if it is determined by the reviewing body that such information is necessary for an adequate and informed review.

§ 36.4 Lighting Design

A. General Requirements.

- (1) No exterior lighting fixtures shall shine directly upon any neighboring residential property or be so established that it shall shine directly upon any residential property or shall shine directly on or into any room or rooms, porches or patios of any residential property, nor shall any exterior lighting fixtures be maintained or operated from any structure or land in such a manner as to be a nuisance or an annoyance to neighboring residential

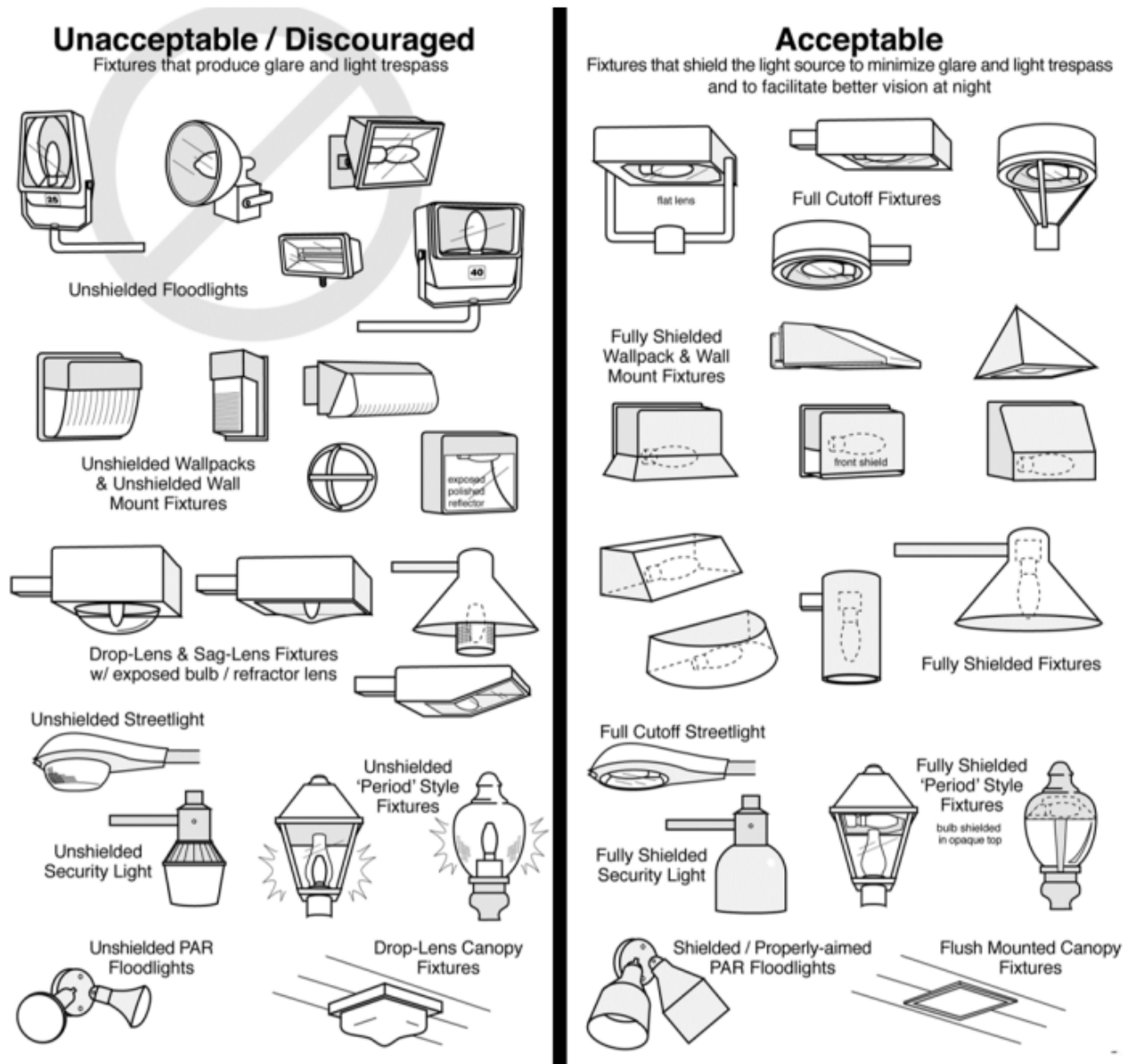
properties or as to interfere with the physical comfort of the occupants of residential properties.

- (2) Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures should be of a design and size compatible with the building and adjacent areas, as determined appropriate by the reviewing body.
- (3) Vegetation and landscaping shall be maintained in a manner that does not obstruct outdoor lighting.
- (4) Exterior lighting installations should be designed to avoid harsh contrasts in lighting levels.
- (5) All wiring for lighting shall be installed underground, where applicable.
- (6) Fixtures and lighting systems shall be in good working order and shall be maintained in a manner that serves the original design intent of the system.

B. Shielding.

- (1) Fixtures shall be fully shielded, pointing downward, to minimize skyglow, glare, and light trespass in accordance with the International Dark Sky Association guidelines (See Figure 36.1).
- (2) Luminaries shall be so hooded or shielded that the maximum angle of the cone of direct illumination shall be 60 degrees drawn perpendicular to the ground. Such angle may be increased to 90 degrees if the luminary is less than three feet above ground (See Figure 36.2).
- (3) Vegetation screens should not be employed to serve as the primary means for shielding and should be achieved primarily by full cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle, and fixture placement.

FIGURE 36.1 – ACCEPTABLE LIGHTING TYPES & SHIELDING



ILLUSTRATIONS BY BOB CRELIN©. RENDERED FOR THE TOWN OF SOUTHAMPTON, NY. COURTESY OF INTERNATIONAL DARK-SKY ASSOCIATION.

C. Residential District Requirements. Exterior lighting in residential districts shall also be subject to the following:

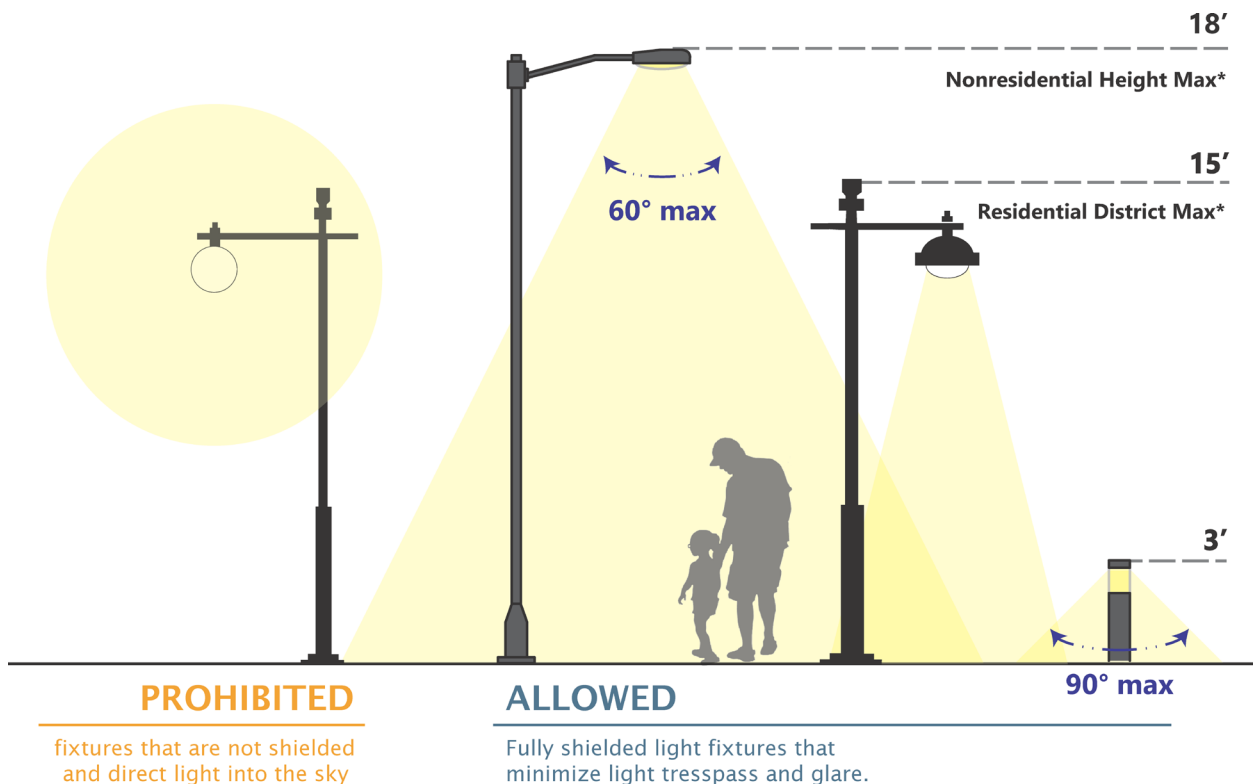
- (1) Freestanding light fixtures shall be appropriate to the design of the structures and shall not exceed 15 feet in height above grade (see Figure 36.2).
- (2) Wall-mounted light fixtures shall not be mounted higher than 12 feet above the ground level immediately below the location of the light source.

- (3) The use of floodlights on nonresidential use properties in residential districts shall be prohibited.

D. Nonresidential District Requirements. Exterior lighting in nonresidential districts shall also be subject to the following:

- (1) Freestanding light fixtures shall be appropriate to the design of the structures and shall not have a mounting height greater than 18 feet in height above grade (see Figure 36.2).
- (2) Wall-mounted light fixtures shall not be mounted higher than 15 feet above the ground level immediately below the location of the light fixture.
- (3) For exterior lighting installations and fixtures within 50 feet of a residential district, freestanding lighting fixtures shall be no higher than 15 feet above grade.

FIGURE 36.2 – LIGHT FIXTURE HEIGHT & CONE OF ILLUMINATION



* All height measurements are taken from the ground to the top of the lighting structure.

E. Requirements by Use and Style of Lighting.

- (1) Spotlights or other types of artificial lighting used to illuminate entrances, building facades, or signs shall be top mounted fixtures which project downward only onto the surface itself.

- (2) Awnings and canopies used for building accents over doors, windows, walkways, and the like shall not be internally illuminated (i.e., not lit from underneath or behind).
- (3) Pedestrian-scale lighting (between 10 feet and 15 feet in height) should be provided along major pedestrian pathways with all new development.
- (4) The illumination of signs shall also conform to the requirements of Article 35 of this Zoning Law.
- (5) Pole-mounted light fixtures may exceed the height limitations of this Article where NYSDOT, Chautauqua County Department of Public Works, or other such transportation authority regulations require.
- (6) Luminaires used for playing fields and outdoor recreational uses shall be exempt from height restrictions, provided that all other provisions of this section are met and such lighting is only illuminated while the field is in use.
- (7) Where two sites share parking or pedestrian areas, lighting design and installation shall be coordinated so as to maintain consistent and uniform lighting levels.

§ 36.5 Intensity of Illumination

- A. For all non-residential uses all lighting fixtures shall be shielded and directed so as not to cast an illumination of more than 0.2 foot-candles beyond the property line. For residential uses all lighting fixtures shall be shielded and directed so as not to cast an illumination of more than 0.1 foot-candles beyond the property line.
- B. Bulb types should be selected to reduce blue light emissions, which may be hazardous to human health and wildlife. The use of soft white or amber colored lighting is preferred. The use of LED bulbs or similar energy efficient light source is preferred.
- C. Where practical, exterior lighting installations should include timers, dimmers, motion sensors, or photocell controllers that turn the lights off during daylight hours or hours when lighting is not needed, to reduce overall energy consumption, eliminate unneeded or excessive lighting, and reduce light pollution.
- D. Fixtures shall be no brighter than necessary to illuminate the site and/or area intended. To the extent practicable, lighting fixtures shall be designed and programmed to adjust to ambient lighting conditions (e.g. decreasing the intensity of illumination at nighttime).

§ 36.6 Prohibited Lighting

- A. The following types of lighting shall be prohibited, unless otherwise specified:
 - (1) High pressure sodium, metal halide, and mercury vapor lights sources, as well as light sources rated over 3000 Kelvin.
 - (2) Blinking, flashing, strobe, or search lights.

- (3) Exposed strip lighting used to illuminate building facades or signs.
- (4) Any light that may be confused with or construed as a traffic control device.