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# ATHENS CODE: ZONING, CHAPTER 92

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## Chapter 92 ZONING

### ARTICLE I Legislative Intent

#### ***§ 92-1. Purpose***

There is hereby established a Comprehensive Zoning Local Law for the Village of Athens. The text, map and schedules contained herein shall constitute this chapter. Said chapter is adopted for the following purposes:

- A. To protect and promote the public health, safety and general welfare of the village.
- B. To guide the future growth and development of the village.
- C. To protect the character and the social and economic stability of all parts of the village and to encourage the orderly and beneficial development of all parts of the village.
- D. To protect and conserve the value of land throughout the village and the value of buildings appropriate to the various districts established by this chapter.
- E. To minimize the conflicts among the uses of land and buildings.
- F. To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activities relating to uses of land and buildings throughout the village.
- G. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and sound management of the natural resources throughout the village in order to preserve the integrity, stability and beauty of the community and the value of the land.
- H. To preserve the natural beauty of the topography of the village and to ensure appropriate development with regard to these natural features.

### ARTICLE II Zoning Districts

#### ***§ 92-2. Establishment of districts.***

The Village of Athens is hereby divided into the following districts:

- OS/C** Open Space/Conservation District
- RL** Low-Density Residential District
- RR** Recreational Residential District
- RM** Medium-Density Residential District
- CR** Commercial Residential District
- C** Commercial District
- I** Industrial District
- W** Waterfront District [Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]

#### ***§ 92-3. Zoning Map.***

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The areas and boundaries of such districts are hereby established to scale as shown on a map entitled "Zoning Map of the Village of Athens," adopted and certified by the Village Clerk and referred to herein as the "Zoning Map." Said Zoning Map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.

### ***§ 92-4. Interpretation of zoning boundaries.***

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following town limits shall be construed as following such town limits.
- C. Boundaries indicated as approximately following the center lines of streams, lakes or other bodies of water shall be construed to follow such center lines.
- D. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- E. Where physical or cultural features existing on the ground are at variance with the Zoning Map or in other circumstances not covered by subsections above, the Zoning Board of Appeals shall interpret the district boundaries.

### ***§ 92-5. Regulations***

The restrictions and controls intended to regulate development in each district are set forth in the Schedule of Regulations on the following pages.<sup>1</sup> These regulations are supplemented in other sections of this chapter.

## ARTICLE III District Regulations

### ***§ 92-6. Application of regulations.***

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the districts in which it is located.
- B. No building shall hereafter be erected or altered to exceed the height or bulk; accommodate or house a greater number of families; occupy a greater percentage of lot area; and to have narrower or smaller rear yards, front yards or side yards than is herein required for the district in which such a building is located.

No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

### ***§ 92-7. Specific requirements.***

Specific requirements for each zoning district are found on the following Zoning Schedules numbered §§ 92-8 through 92-14.1.

### ***§ 92-8. OS/C Open Space/Conservation District.***

- A. The Open Space/Conservation. Districts contain land which should not be developed because of physical limitations or *are areas* that should be preserved for public enjoyment, such as the Hudson River shorelines and the Middle Ground Flats Island. The physical limitations involved include floodplains, wetland areas, streambanks and areas of excessive slopes. These lands should not be developed as long as easily accessible lands are available elsewhere.
- B. Permitted uses shall be as follows:
  - (1) Outdoor recreation.
  - (2) Forestry.
  - (3) Agriculture.

### ***§ 92-9. RL Low-Density Residential District.***

- A. This area is as yet relatively undeveloped but is, so designated for additional residential growth because of its high potential for future development. This district will provide a type of development which will be suburban in character and which is located adjacent to higher-density districts.
- B. Permitted uses shall be as follows:
  - (1) Single-family dwellings.
  - (2) Outdoor recreation.
  - (3) Agriculture.
  - (4) Home occupations.
- C. Special uses shall be as follows:
  - (1) Two-family dwellings.

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- (2) Hospitals, nursing or convalescent homes.
- (3) Tourist accommodations.
- (4) Educational, religious or philanthropic institutions.
- (5) Mobile homes.
- (6) Mobile home parks.

D. **[Amended 5-24-1995 by L.L. No. 1-1995]** Minimum lot sizes shall be as follows:

(1) Area.

- a) Ten thousand (10,000) square feet if served with public sewers and water.
- b) Five (5) acres without public water and sewers.
- c) Two and one-half (2½) acres if served with public water.

(2) Width

- a) Seventy-five (75) feet if served with public sewers and water or if served with public water only.
- b) One hundred fifty (150) feet if not served with public sewers and water.

E. Maximum height of buildings shall be thirty (30) feet.

**[Amended 5-24-1995 by L.L. No. 1-1995]**

F. **[Amended 5-24-1995 by L.L. No 1-1995]** Front yard depth shall be as follows:

- (1) Twenty (20) feet if served with public sewers and water or if served with public water only.
- (2) Forty (40) feet without public sewers and water.

G. **[Amended 5-24-1995 by L.L. No. 1-1995]** Side yard depth shall be as follows:

- (1) Ten (10) feet if served with public sewers and water or if served with public water only.
- (2) Twenty (20) feet without public sewers and water.

H. **[Amended 5-24-1995 by L.L. No. 1-1995]** Rear yard depth shall be as follows:

- (1) Twenty (20) feet if served with public sewers and water or if served with public water only.
- (2) Forty (40) feet without public sewers and water.

### ***§ 92-10. RR Recreational Residential District.***

A. The RR Recreational Residential District consists primarily of the Sleepy Hollow Lake development which is mainly a second home development used for recreational purposes. As in the preceding Low-Density Residential District, development can be more intense, provided that public sewers and water are available.

B. Permitted uses shall be as follows:

- (1) Single-family dwellings.
- (2) Outdoor recreation.
- (3) Agriculture.
- (4) Home occupations.

C. Special uses shall be as follows:

- (1) Hospital, nursing or convalescent homes.

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- (2) Tourist accommodations.
  - (3) Educational, religious or philanthropic institutions.
  - (4) Mobile home parks.
- D.** Minimum lot sizes shall be as follows:
- (1) Area.
    - (a) Ten thousand (10,000) square feet if served with public sewers and water.
    - (b) Three (3) acres without public water and sewers.
  - (2) Width.
    - (a) Seventy-five (75) feet if served with public sewers and water.
    - (b) One hundred fifty (150) feet if not served with public sewers and water.
- E.** Maximum height of buildings shall be thirty (30) feet.
- F.** Front yard depth shall be as follows:
- (1) Twenty (20) feet if served with public sewers and water.
  - (2) Forty (40) feet if without public, sewers and water.
- G.** Side yard depth shall be as follows:
- (1) Ten (10) feet if served with public sewers and water.
  - (2) Twenty (20) feet without public sewers and water.
- H.** Rear yard depth shall be as follows:
- (1) Twenty (20) feet if served with public sewers and water.
  - (2) Forty (40) feet without public sewers and water.

### ***§ 92-11. RM Medium-Density Residential District.***

- A.** Most of the RM Medium-Density Residential District is residential at this time and is provided with public sewers and water; therefore, a higher intensity of development is warranted.
- B.** Permitted uses shall be as follows:
- (1) Single-family dwellings.
  - (2) Two-family dwellings.
  - (3) Outdoor recreation.
  - (4) Home occupations.
- C.** Special uses shall be as follows:
- (1) Multiple-family dwellings.
  - (2) Professional offices.
  - (3) Hospitals, nursing or convalescent homes.
  - (4) Educational, religious or philanthropic institutions.
- D.** Minimum lot sizes shall be as follows:
- (1) Area: ten thousand (10,000) square feet.
  - (2) Width: seventy-five (75) feet.
- E.** Maximum height of buildings shall be thirty (30) feet.
- F.** Front yard depth shall be twenty (20) feet.

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- G. Side yard depth shall be ten (10) feet.
- H. Rear yard depth shall be twenty (20) feet.

### **§ 92-12. CR Commercial Residential District.**

A. The CR Commercial Residential District contains the highest density residential uses in the village and, as part of the central area of the village, should be developed into neighborhood-type businesses, apartments, townhouses and professional buildings. One

(1) of the purposes of this district is to encourage growth in areas that already have been developed to reduce the scattered development in the more open parts of the village.

B. Permitted uses shall be as follows:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) (Reserved)<sup>2</sup>
- (4) Professional or business offices.
- (5) Retail stores and shops.
- (6) Hotels or restaurants.
- (7) Banks, savings and loan institutions.

C. [Added 7-8-1993 by L.L. Na. 5-1993<sup>3</sup>] Special uses shall be as follows:

(1) Multiple-family dwellingsD. Minimum lot sizes shall be as follows.

(1) Area: none. [NOTE: Must be in compliance with surrounding buildings.]

(2) Width: none. [NOTE: Must be in compliance with surrounding buildings.]

E. Maximum height of buildings shall be fifty (50) feet.

F. Front yard depth shall be none. [NOTE: Must be in compliance with surrounding buildings.]

G. Side yard depth shall be none. [NOTE: Must be in compliance with surrounding buildings.]

H. Rear yard depth shall be none. [NOTE: Must be in compliance with surrounding buildings.]

I. Exceptions to Setbacks:

(1) A single storage shed not to exceed 120 square feet in size and one story in height shall be permitted to be set within six (6) feet of either the side or rear lot lines.

(2) Fences shall not be subject to setback regulations.

### **§ 92-13. C Commercial District.**

A. The Commercial District is located along both sides of New York Route 385, except on the east side of New York Route 385 from the junction with Water Street north to an area southeast of Goodrich Street, where it is located only along the west side of New York Route 385, and contains mostly highway-oriented businesses. The purpose of this district is to cluster the commercial enterprises where such uses currently exist and to provide a more convenient, prosperous location for such uses adjacent to the commercial hub that exists in the Commercial Residential District. The Commercial District can also meet the demands of the future residents of the Sleepy Hollow Lake Development. [Amended 10-28-1904 by L.L. No 2-1994; 12-14-1994 by L.L. No. 4-1994]

B. Permitted uses shall be as follows:

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- (1) Offices.
- (2) Retail stores.
- (3) Restaurants.

(4) Banks.

C. Special uses shall be as follows:

- (1) One-family dwellings.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings.
- (4) Automobile service stations.
- (5) Auto sales.
- (6) Shopping centers.

D. Minimum lot sizes shall be as follows:

- (1) Area: fifty thousand (50,000) square feet.
- (2) Width: fifty (50) feet.

E. Maximum height of buildings shall be fifty (50) feet.

F. Front yard depth shall be none. **[NOTE: Must be in compliance with surrounding buildings.]**

G. Side yard depth shall be twenty-five (25) feet.

H. Rear yard depth shall be twenty-five (25) feet.(1) (2)

### ***§ 92-14. WI Industrial District. [Amended 10-26-1994 by L.L. No. 2-1994;12-14-1994 by L.L. No. 4-1994]***

A. The I Industrial Districts, adjacent to the Commercial District, provide for the continuation of industrial activities in areas already containing this type of activity. Proximity to Route No. 385 and the Hudson River make these districts amenable to future industrial growth. Uses which require a waterfront location shall be encouraged.

B. Permitted uses shall be as follows:

- (1) (Reserved)

C. Special uses shall be as follows:

- (1) Industrial uses requiring a waterfront location.
- (2) Any manufacturing, compounding, processing, packing, treatment or warehousing of goods and products, provided that the use meets the performance standards specified under supplementary regulations.
- (3) Retail sales.
- (4) Offices.
- (5) Motel, restaurant.
- (6) Research and testing laboratories.
- (7) Wholesale business.
- (8) Shopping centers.

D. All uses in the I Industrial District shall be subject to site plan review.

E. Minimum lot sizes shall be as follows:

- (1) Area: twenty thousand (20,000) square feet.

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- (2) Width: one hundred (100) feet.
- F. Maximum height of buildings shall be fifty (50) feet.
- G. Front yard depth shall be forty-five (45) feet.
- H. Side yard depth shall be twenty-five (25) feet.
- I. Rear yard depth shall be twenty-five (26) feet from the mean high waterline of the Hudson River.

### **§ 92-14.1. W Waterfront District.**

- A. The W Waterfront District is established to give preference on the Hudson River shore to those uses which are dependent upon or are enhanced by a waterfront location, to preserve the village's small harbor identity, to protect views to the water from public streets, to preserve and enhance the scenic character of the waterfront as seen from the Hudson River, to retain public access to the waterfront, to prevent damage to property and to implement other policies and purposes of the approved Local Waterfront Revitalization Program.
- B. Permitted uses shall be as follows:
  - (1) Recreation facilities requiring a waterfront location such as boat launches, fishing piers and swimming facilities providing non-discriminating access to, all members of the public.
  - (2) Cultural, educational or scientific uses which by their nature require access to the water.
  - (3) Parks, playgrounds and other public recreational facilities enhanced by a waterfront location.
  - (4) Structures needed for navigational purposes.
  - (5) Facilities which support or are necessary to one (1) of the above uses and which occupy less than twenty percent (20%) of total floor area and off-street parking lots. To the extent possible, such facilities will be sited inland of the principal use.
- C. Special uses shall be as follows:
  - (1) Commercial uses which require water transportation for transfer of goods or products.
  - (2) Restaurants with river access/service.
  - (3) Single family homes [in accordance of § 92-18C(1)].
  - (4) Public utilities dependent on a waterfront site.
  - (5) Marinas and related uses, such as sale of marine supplies, services, fuel, equipment, boat yards, boat repairs, manufacture, assembly or repair of marine products such as boats, sails and hardware, charter boats and fishing guide operations, boat rentals or annual membership clubs which are water dependent and which conditions use of the facility upon membership on a nondiscriminatory basis. Support facilities necessary for successful functioning of above uses, for example, parking areas, smack bars, first aid stations and short-term storage facilities. To the extent possible, such facilities will be cited inland of the principal use.
- D. All uses in the W Waterfront District shall be subject to site plan review.
- E. Minimum lot sizes shall be as follows:
  - (1) Area.
    - (a) Ten thousand (10,000) square feet if served with public sewers and water.
    - (b) Five (5) acres without public water and sewers.
  - (2) Width.
    - (a) Seventy-five (75) feet if served with public sewers and water.

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- (b) One hundred fifty (150) feet if not served by public sewers and water.
- F. Maximum height of buildings shall be twenty-five (25) feet.
- G. Minimum front yard depth shall be ten (10) feet.
- H. Minimum side yard depth shall be twenty-five (25) feet.
- I. Minimum rear yard depth shall *be* twenty-five (25) feet from the mean high waterline of the Hudson River unless a permitted *use requires* a location closer to or at the water's edge.
- F. Width of all structures on a lot, including fences or walls over thirty-six (36) inches high, shall not exceed fifty percent (50%) of the lot width as measured parallel to the Hudson River. Structures requiring a waterside location will be the minimum size that will accomplish the intended function.
- J. 89101112131415
- K. Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon completion of the project.
- L.
- G. Permits for temporary residences to be occupied pending the construction, repair or renovation of the permanent residential building on a site shall expire within six (6) months after the date of issuance.
- H. except that the administrator may renew such permit for one (1) additional period not to exceed three (3) months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make such building habitable.

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## ARTICLE IV Supplemental Regulations

### **§ 92-15. Special Flood Hazard Districts.**

Special Flood Hazard Districts are hereby established and are delineated on the Zoning Map as an overlay district. With the exception of agricultural uses and outdoor recreation, no easements shall be permitted within a Special Flood Hazard District without special permit, issued pursuant to the provisions of § 92-18 of this chapter. In addition, uses within a Flood Hazard District must meet the following requirements:

- A.** All new construction. All new construction or substantial improvements of buildings and other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate:
  - (1) Anchoring to prevent flotation, collapse or lateral movement of the structure.
  - (2) Construction with materials and utility equipment resistant to flood damage.
  - (3) Construction by methods and practices that minimize flood damage.
  - (4) Public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  - (5) Adequate drainage provided to reduce exposure to flood damage.
  - (6) New and replacement water supply systems designed to minimize or eliminate the infiltration of floodwaters into the system.
  - (7) New and replacement sanitary sewage systems designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  - (8) On-site waste disposal systems located to avoid impairment to them or contamination from them during flooding.
- B.** Residential structures. New construction or substantial improvement of any residential structures, including the placement of mobile homes, shall have the lowest floor, including the basement, elevated to or above the base flood elevation at that point.
- C.** Nonresidential structures. New construction or substantial improvement of any commercial, industrial or other nonresidential structures shall either have the lowest floor, including the basement, elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The design of floodproofed structures may include the following measures or techniques as appropriate:
  - (1) Anchoring to resist flotation and lateral movement.
  - (2) Reinforcement of walls to resist water pressures.
  - (3) Installation of watertight doors, bulkheads and shutters.
  - (4) Using paints, membranes or mortars to reduce seepage of water through walls.
  - (5) Addition of mass or weight to resist flotation.
  - (6) Installation of pumps to lower water levels in structures.
  - (7) Use of pumps to relieve hydrostatic water pressure on external walls and basement floors.

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- (8) Elimination of gravity flow drains.
- (9) Construction to resist rupture or collapse caused by water pressure or floating debris.

**D.** Fill required. Where elevation of the first floor or basement floor above the base flood elevation is required, fill deposited shall extend at least fifteen (15) feet beyond the limits of any structure or building erected thereon, and such fill shall be bulkheaded, vegetated or protected from erosion by some other means.

### **§ 92-16. Historic Districts.**

- A.** Legislative intent. The purpose of this Section is to promote the educational, cultural, economic and general welfare of the public through the protection, enhancement, perpetuation and preservation of the Historic Districts. The Village Board declares that it is a public purpose to ensure that the distinctive and historical character of the Historic Districts shall not be injuriously affected, that the value to the community of those buildings which have architectural and historical worth shall not be impaired, and that said Historic Districts be maintained and preserved to promote their use for the education, pleasure and welfare of the citizens of the Village of Athens and others.
- B.** Boundaries of Historic Districts. The Historic Districts shall be the areas shown and bounded as such on the map entitled "Zoning Map of the Village of Athens" and made a part of this chapter. These districts are the same as have been nominated to the National Register of Historic Places.
- C.** Regulations. No building or other structure which is wholly or partially within a historic area shall be moved, removed, added to or demolished, in whole or in part, nor shall the exterior thereof be modified, repaired or otherwise altered until a permit therefor has been issued by the Code Enforcement Officer, following procedures, spelled out in § 92-28 of this chapter.
- D.** Maintenance and repair required. [**Amended 7-8-1993 by L.L. No. 3-1993**]
  - (1) Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature in the districts of a building or structure within a Historic District which does not involve a change in design, material, color or, the outward appearance thereof.
  - (2) Nothing in this section shall be construed to prevent the construction, reconstruction, alteration or demolition of any exterior architectural feature which the Code Enforcement Officer shall determine is required by public safety because of dangerous or unsafe conditions.
  - (3) No owner or person with an interest in real property located within a Historic District shall permit the property, building or structure to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature, which would, in the judgment of the Village Planning Board, produce a detrimental effect upon the character of the property, building or structure itself.
- E.** Historic District setbacks. Strict adherence to front yard depth requirements found in the Zoning Schedules<sup>3</sup> shall be waived as part of the Historic District review where the applicant or the Planning Board can show that a modified front yard size is more appropriate to preserve the character of the area.
- F.** Procedure for the review of plans. No building permit or special permit shall be issued

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with respect to any building or structure which is within a Historic District until the application has been reviewed by the Village of Athens Planning Board. The Code Enforcement Officer shall submit a copy of the application, copies of all maps and other information relative to the case to the Planning Board for its opinions. In such review, the Planning Board shall give consideration to any factors it may deem pertinent, including:

- (1) The historic or architectural value and significance of any structure.
  - (2) Its relationship to the historic value and architectural styles and types of buildings in the surrounding area.
  - (3) The appropriateness of exterior design, arrangement, textures; nature and quality of materials, colors and general appearance.
- G.** The Planning Board shall have the power to call in experts to aid in its deliberations and may confer with the applicant or his authorized representative. The Planning Board shall approve or disapprove such plans and, if approved, shall issue an opinion of approval, which is to be signed by the Chairman, attached to the application for a building permit and transmitted to the Code Enforcement Officer. If disapproved, the Planning Board shall issue an opinion of disapproval and shall transmit a record of such action and reasons therefor to the Code Enforcement Officer and to the applicant. The Board may recommend what it thinks is proper if it disapproves the plans submitted. The failure of the Planning Board to render an opinion regarding such plans within thirty (30) days from the date of application shall be construed a favorable opinion.
- H.** The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after doing so.
- I.** Exterior color. A change in the exterior color of a building or structure in the Historic District shall require a permit, which may be issued in accordance with 92-16C of this chapter. No change in color shall be approved or permitted unless the new color is consistent with and appropriate for the historic character of the neighborhood in which the building or structure is located. **[Added 7-801993 by L.L. No. 3-1993]**
- J.** Hardship. Any owner or person with an interest in *property* within any Historic District may submit an application to the Village Planning Board for temporary exemption from provisions of this section due to hardship. If the Village Planning Board finds that a hardship exists, the Village Planning Board may exempt the applicant from the provisions of this section until such time as the hardship ceases to exist. **[Added 7-8-1993 by L.L. No. 3-1993]**
- K.** Appeals. Any person aggrieved by a decision of the Village Planning Board relating to hardship in the maintenance and repair of their property may, within thirty (30) days of the decision, file a written application to the Athens Village Board for a review of the decision. **[Added 7-8-1993 by L.L. No. 3-1993]**

### **§ 92-17. Parking.**

- A.** Off-street parking spaces shall be provided in any district in accordance with the specifications in this section whenever any new use is established or existing use is enlarged. Exceptions shall be as follows: For all home occupations and for all uses in the Commercial and Commercial Residential Districts, the parking requirements may be waived where it is demonstrated that sufficient public on-street parking is available. In

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addition, for, home occupations only, a portion of a driveway measuring two hundred (200) square feet, belonging to the structure wherein such use will take place, will be deemed acceptable for the first parking space required.

| <b>Use</b>   | <b>Parking Spaces Required</b>             |
|--|--|
| Residential  | 2 per dwelling unit                        |
| Lodging house  | 1 per lodging unit                         |
| Church or school   | 1 per 2 seats in principal assembly room   |
| Professional offices, business services,<br>home occupations | 1 for every 200 square feet of floor space |
| Retail business and personal service<br>establishments       | 1 for every 150 square feet of floor space |
| Restaurants and eating establishments                        | 1 for every 2 seat                         |

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Industrial

1 for each employee, based on the highest expected average employee occupancy

**B. [Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]**

Within the W Waterfront District, off-street parking facilities will be provided as follows:

- (1) At marinas, dedicated parking spaces shall be provided at a minimum rate of six-tenths (0.6) spaces per slip, plus whatever additional spaces are deemed necessary by the Board of Appeals for employees and for ancillary activities on the premises
- (2) Uses not enclosed in a structure: one (1) space for every four (4) persons at the maximum designed capacity of the facility.
- (3) Parking for a use in the Waterfront District may be provided on adjoining lands in adjacent districts, on property owned or controlled by the same owner.

### ***§192-18. Special use permits.***

The special uses for which conformance with additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case. **A.** General procedures and provisions.

- (1) All uses of land listed in the Schedules of Regulations (§§ 92-8 through 92-14) as special uses shall be allowed upon issuance of a special use permit by the Village of Athens Zoning Board of Appeals. A site plan for the proposed development of a site for special use shall be submitted with an application for a special use permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features and any other pertinent information, including such information about neighboring properties as may be necessary to determine and provide for the enforcement of this chapter.
- (3) Application for required special use permits shall be filed with the Building Inspector, who shall forward the application to the Zoning Board of Appeals for decision.
- (4) A nonrefundable fee of three dollars (83.) to cover the cost of processing special use permits and applications therefor shall accompany any application for a special use permit and shall be in addition to the building permit fee as described in this chapter.
- (5) )))))
- (6) Each application for a special use permit shall be referred to the Planning Board for a report, which report shall be rendered prior to thirty (30) days after receipt by the Planning Board of the referred application. If the Planning Board does not submit a report to the Zoning Board of Appeals within thirty (30) days, the application will be considered as having the Planning Board's approval.
- (7) A special use permit shall be deemed to authorize only one (1) particular special use, and such permit shall be considered null and void if, within one (1) year from the date of issue, all improvements required for this special use are not completed and if the special use shall cease for more than one (1) year for any reason, unless otherwise provided in the Zoning Board of Appeals' approval to said use.

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- (8) A use authorized by special use permit may be revoked by the Zoning Board of Appeals if it is found and determined that there has been a failure of compliance with any one (1) of the terms, conditions, limitations and requirements imposed by said permit.
- (13) The Zoning Board of Appeals shall attach such conditions and safeguards to the special use permit as are necessary to assure continual conformance with all applicable standards and requirements.
- (14) In granting or denying a special use permit, the Board of Appeals shall specify in its written decision the particular conditions for such approval or the grounds for denial.
- B. Standards for all special use permits.** The standards for special use permits shall dictate the location and size of the use, the nature and intensity of the operations involved and the size of the site in relation to it. The location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district, and the locations, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof
- (1) The proposed special use shall have adequate access for fire and police protection.
- (2) The proposed special use shall be of such location, size and character that it will be in harmony with the orderly development of the district in which it is to be situated, and such use will not be detrimental to the orderly development of adjacent properties.
- (3) The proposed special use shall provide safe, convenient and adequate vehicular and pedestrian access to and from the use through the provision of adequate, but not excessive, points of ingress and egress which are of sufficient width, properly graded and aligned, provide clear visibility and are not located too near street corners or places of public assembly.
- (4) Parking.
- (a) The proposed special use shall provide adequate off-street parking and loading areas which are properly located on the lot so as to provide safe and convenient circulation.
- (b) **[Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]** New parking areas shall porous pavements or other approved measures to reduce rainfall runoff. New projects must incorporate best management practices in their design, including but not limited to the following:
- [1] Maximize pervious land surface and vegetative cover to minimize stormwater runoff and to prevent polluted waters from, reaching adjacent waters and wetlands; direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.
- [2] Runoff from parking lots, maintenance, fueling and washdown areas must be treated in a manner that prevents oils, grease and detergents from rewiring adjacent waters and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and filtration systems.
- (5) The proposed special use, location and height of buildings shall be such that this special use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

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- (6) The proposed special use shall provide adequate landscaping and screening of all parking, dumpsters, storage and service areas so that such areas are screened at all seasons of the year from the view of adjacent lots and streets. **[Amended 10-26-1994 by L.L. No. 2-1994; 12-14-1994 by L.L. No. 4-1994]**
- (9) In addition, the following factors will, be taken into consideration:
- (a) The architectural value and significance of the structure and its relationship to the surrounding area.
  - (b) The general appropriateness of the exterior design, arrangement, texture and materials proposed to be used.
  - (c) Any other factors, including aesthetics, which the Zoning Board of Appeals deems pertinent.
- C. Additional standards applicable to special use permits within the W Waterfront District and the I Industrial District. **[Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]**
- (1) To ensure the appropriate development of land, the Zoning Board of Appeals may issue a special use permit only after it has found that all of the following standards and conditions have been satisfied in addition to standards already applicable.
- (a) The special use shall not be incompatible with the type and direction of development for the site and surrounding area as proposed in the adopted and approved Local Waterfront Program.
  - (b) If a non-water dependent use is proposed for development on a lot having shoreline frontage, the use shall be allowed only if compatible with a waterfront location; future demand for a water dependent use is not reasonably foreseeable and appropriate measures are taken to mitigate, to the greatest extent possible, against an irreversible commitment of land to non-water dependent use.
  - (c) A special use or combination of uses shall include water dependent recreation as a mixed use whenever possible.
  - (d) The following standards shall apply to new marina and marina-related project proposals as well as projects for expansion of existing marinas:
    - [1] In general, all new marina proposals or expansion of existing shrill, as appropriate, include sufficient parking, parklike surroundings, toilet facilities and marine pumpout facilities.
    - [2] In evaluating proposals for new marina construction, the Village of Athens will favor those proposals which involve an efficient utilization of open water space by providing alternative ways of meeting the needs of boaters. Alternatives include dry- stack facilities with the minimum number of wet slips needed to provide efficient operation, rehabilitation and alteration of existing marinas, open water facilities, or any combination of these four (4) approaches.
    - [3] Marinas shall be located in areas where at least the minimum physical attributes required by marinas already exist and where minimal initial and subsequent attributes include natural depths at or exceeding minimum navigable depths, low rates of sediment transport and sufficient tidal action to promote flushing. Dredging shall be limited to the minimum dimensions necessary for the project. Marinas shall not be permitted in areas that would require frequent maintenance dredging that would harm aquatic life or would prevent the relocation of benthic organisms. Such areas would include those which would require maintenance

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dredging more often than once every five (5) years.

- [4] Applicants must demonstrate that there is an adequate water supply to serve all of the project's needs.
- [5] Sewage pumpout facilities shall be provided at new marinas at a minimum rate of one (1) pumpout station for every one hundred (100) boats accommodated or fraction thereof. For expansions of existing marinas, the number of pumpout stations, if any, shall be determined by the nature and size of the marina and the specific features of its site.
- [6] Adequate rest room facilities for property users will be required to discourage any overboard discharge of sewage from boats in order to protect water quality. The number of toilets required shall be determined by the nature and size of the marina and by its specific site locations.
- [7] The applicant must demonstrate adequate capacity to properly dispose of or treat all sanitary wastes generated by the project.
- [8] An ample number of signs must be provided to identify the location of public rest rooms and of pumpout facilities. Signs must also fully explain the procedures and rules governing the use of the pumpout facilities.
- [9] Trash receptacles shall be plentiful and convenient to encourage the proper disposal of trash and waste. A maximum spacing of one hundred (100) feet between receptacles shall be maintained on all piers and docks.

### **§ 92-19. Height restrictions.**

- A. No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet, than is permitted in the district in which the building or structure is located, as specified in the Schedules of Regulations.<sup>4</sup>
- B. Chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, grain elevators, steeples, barns or silos, water towers, ornamental towers or necessary mechanical appurtenances may be erected to any height with the exception that none shall exceed one hundred (100) feet in height. No towers shall be used as a place of habitation or for tenant purposes. No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the height limitations listed in §§ 92-8 through 92-14.1 of this chapter.
- C. Notwithstanding any other requirement or provision of these regulations, no structure located east of Route 385 shall exceed a height of thirty (30) feet in the Industrial (I), Open Space/Conservation (OS/C) or Medium-Density Residential (RM) districts or twenty-five (25) feet in the W Waterfront District. [Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]

### **§92-20.**

#### ***Additional standards for industrial uses.***

In any Industrial District, the uses permitted are subject to the additional regulations set forth below.

- A. Performance standards. No land or building in any Industrial District shall be used or occupied in such manner as to create any dangerous, injurious, noxious or other hazard due to odor, fire, noise, explosion, vibration, smoke, dust or other form of air pollution, glare, electrical

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or other disturbance. The determination of potentially dangerous or objectionable elements shall be made at locations as follows:

- (1) At the point of origin for fire and explosion hazards, for radioactivity and electrical disturbances and for smoke and other forms of air pollution.
  - (2) At the property line for noise, vibration, glare, odors and other hazards or nuisances.
- B.** For the uses permitted in any Industrial District, the Planning Board shall determine in its judgment that:
- (1) It is reasonably necessary in the interest of public health, safety and general welfare.
  - (2) It is appropriately located and served with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities.
  - (3) Adequate off-street parking spaces are provided to handle the proposed use or uses.
  - (4) The neighborhood character and surrounding property values are reasonably safeguarded.
  - (5) The use will not cause traffic congestion or create a traffic hazard.

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- (6) Adequate design of grades, paving, gutters, drainage and treatment of turf to handle stormwater, prevent erosion and dust, is provided.
  - (7) Proper design and arrangement of signs and lighting devices with respect to traffic control and adjacent neighborhoods is provided.
  - (8) Adequate screen planting, fencing or walls to shield adjacent residential districts from business structures and uses is provided.
  - (9) Other conditions of this chapter are satisfied.
- C. In the case of a request to establish a new Industrial District, the Planning Board shall either approve, modify and approve or disapprove such applications and shall report its decision to the Village Board. The Village Board shall hold a public hearing preceded by due notice as provided by law prior to amending the Zoning Regulations in regard to establishing an Industrial District.
- D. In the case of a request to establish a new use within an Industrial District, the Planning Board shall either approve, modify and approve or disapprove such application and shall report its recommendations to the Village Board regarding the issuance of a building permit.
- E. In the event that the use authorization by the Planning Board has not been completed or substantial progress made within one (1) year from date of approval, such approval shall be deemed automatically revoked and void. The Planning Board may extend the permit for an additional period of six months, if evidence is presented of intent to proceed.

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)))))))))§ 92-21.

**Automobile servicing and repairs.** With the exception of personally owned vehicles, repair and servicing of motor vehicles shall take place only within a building or at auto service stations according to the requirements of this chapter. With the exception of towing service, road calls and emergency repairs.) ) ))))b))))))((0000) ) ) ) ) ) ( ) ) ) ) ) ) ) ( ) ( )b)c)d(0))))))0)))

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A. Purpose and Applicability and Incentives

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## **92-30. A.B.C.E. ARTICLE V Nonconforming Buildings, Uses and Lots**

### ***§ 92-22. Existing uses.***

The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter.

### ***§ 92-23. Discontinuance.***

Whenever a building or land used for or occupied by a nonconforming use has been discontinued for a period of one (1) year for residential dwellings or three (3) years for other uses, such use shall not thereafter be used or occupied as a nonconforming use.

### ***§ 92-24. Alteration and extension.***

- A. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the appraised value of the building, unless the building is changed to a conforming use.
- B. A nonconforming use shall not be extended, but a lawful use may be extended into any portion of a nonconforming building.

### ***§ 92-25. Construction started prior to this chapter.***

Nothing herein contained shall require any change in plans, construction or designated use of a building for which construction shall have been diligently prosecuted prior to the effective date of this chapter.

### ***§ 92-26. Undersized lots.***

Lots of record at the time of adoption of this chapter whose area and/or depth are less than the specified minimum requirements set forth herein shall be deemed to meet the minimum size regulations of this chapter. No new lot shall be created which does not meet the minimum lot size regulations of this chapter.

## **ARTICLE VI Administration**

### ***§ 92-27. Enforcement.***

This chapter shall be enforced by the Code Enforcement Officer, appointed by the Village Mayor with the approval of the Village Board of Trustees. No building permit or certificate of

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occupancy shall be issued by him except where all the provisions of this chapter have been complied with.

### **§ 92-28. Building permits.**

- A.** [Amended 7-8-1993 by L.L. No. 8-1993] No building or structure, including curbs or sidewalks, shall be erected, added to or structurally altered until a permit therefor has been issued by the Code Enforcement Officer. Any application for a building permit shall state the following:
- (1) The name and address of the applicant.
  - (2) The location of the proposed building or improvement.
  - (3) A description of the proposed building (dwelling, equipment shed, barn, garage, etc.) or improvement.
  - (4) A site plan where required.
  - (5)
- B.** Building permit issuance. The Code Enforcement Officer shall act upon all applications for building permits within ten (10) working days from the date of application or, if a special permit, within ten (10) working days from the date the special permit was granted.
- C.** Schedule of fees. There shall be a fee charged for a building permit, which shall be in an amount as set by the Board of Trustees by resolution from time to time. [Amended 7—8--1993 by L.L. No. 6—1993]
- D.** Special Flood Hazard District regulations.
- (1) Upon receipt of the application, the Code Enforcement Officer shall determine if the location of such proposed building falls within a Special Flood Hazard District or if the use requires a special permit.
  - (2) If such proposed construction is within the delineated boundaries of the Special Flood Hazard District or if a special permit is required, then the provisions of § 92-18A and B of this chapter shall apply before any such building permit shall be issued.
  - (3) The Code Enforcement Officer shall obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement. He shall also obtain, verify and record the actual elevation to mean sea level to which any new or substantially improved nonresidential structures have been floodproofed. All such records shall be maintained for public inspection.
  - (4) If such proposed construction is outside the delineated boundaries of the Special Flood Hazard District or if no special permit is required, then the Code Enforcement Officer shall issue a building permit pursuant to the fulfillment of the requirements of the applicable district regulations.
- E. Historic District review.** If, upon receipt of an application for a building permit, the Code Enforcement Officer determines that the location of such proposed building falls within the boundaries of the Historic Districts, such application shall be forwarded to the Village of Athens Planning Board for review according to the regulations found in § 92-18A of this chapter.

**§ 92-29. Certificates of occupancy.**

No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector in accordance with the provisions of the Building Code. All certificates of occupancy shall be applied for coincident with the application for the building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter.

**§ 92-30. Zoning Board of Appeals.**

A. A Zoning Board of Appeals is hereby created in accordance with § 7-712 of the Village Law of New York State. Said Board shall consist of three (3) members. The officers of the Board shall consist of a Chairman, Acting Chairman and a Secretary. The Zoning Board of Appeals shall select its own Chairperson and prescribe rules for the conduct of its affairs.

B. Powers and duties. The Board of Appeals shall have all the power and duties prescribed by law and by this chapter which are more particularly specified as follows:

(1) Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Special permits. To issue special permits under conditions set forth in this chapter.

(3) Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provision of this chapter shall be granted by the Zoning Board of Appeals unless it finds that:

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(a) There are special circumstances or conditions, fully described in the findings of the Board, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.

(b) For reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

(c) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**§ 92-31. Penalties for offenses.**

A. Violations to this chapter shall be subject to the provisions of the applicable law. Upon

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determination by the Code Enforcement Officer that a violation exists, written notice shall be sent to the last known owner of the property. Such notice shall state the specific provision in violation and that, unless action is taken by said owner to remove such violation within twenty (20) days, a proceeding to compel compliance with this chapter will be instituted.

- B.** A violation of this chapter is an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.).
- C.** Violations of this chapter shall be deemed misdemeanors. Each week the violation continues shall be deemed to be a separate and distinct violation.

### ***§ 92-32. Referral to County Planning Board.***

Before final action is taken on special permits, variances or amendments of this chapter, such matter will be referred to the County Planning Board in accordance with the procedures required in Article 12-B, §§ 239-1 and 239-m of the General Municipal Law.

#### ***§ 92-32.1. Site plan approval.***

- A.** Uses requiring site plan approval. No building permit shall be issued for any use other than a one- or two-family dwelling prior to review and approval of a site plan by the Planning Board in accord with the provisions of this section. In all cases where any amendments of such plan are proposed, the applicant must also secure the approval of the amendment by the Planning Board.
- B.** Objectives of the site plan review. In reviewing site plans, consideration shall be given to the public health, safety and welfare, the comfort and convenience of the public in general or the residents or users of the proposed development and of the immediate neighborhood in particular; protection and enhancement of the public access, scenic, historic and natural resources of the village; and the accomplishment of the following objectives:
  - (1)** That the design of all structures is compatible with that of surrounding structures. Compatibility shall be determined by a review of proposed use of materials, scale, mass, height, color, texture and location of the structure or structures on the site.
  - (2)** That the proposed use is compatible with, protects and avoids disturbance of sites recognized as being of national, state or local historical, architectural or archaeological importance on or adjacent to the site pursuant to § 92-16.
  - (3)** That all traffic accessways are adequate but not excessive in number; adequate in width, grade, alignment and visibility, not located too near street corners or other places of public assembly; and other similar safety considerations.
  - (4)** That for uses within the coastal area, the applicable coastal policies established in the Town and Village of Athens Local Waterfront Revitalization Program are adhered to and the requirements of the Local Consistency Law are complied with.
  - (5)** That off-street parking and loading spaces are -designed to prevent obstruction in public streets and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, loading bays and building services.
  - (6)** That all parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is such as to enhance the character of the village and is in character with that generally prevailing in the neighborhood.
  - (10)** That all outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.

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- (11) That there shall be no public address or other system audible beyond the limits of the site.
- (12) That the drainage system and the internal water and sewer systems are adequate and that all connections to village systems are in accordance with village standards.
- (13) That site plan and building design accommodate the needs of the handicapped and are in conformance with state standards for construction concerning the handicapped.
- (14) That the site plan and building design maximize the conservation of energy to the extent feasible.
- (15) That the natural ground contours are followed as closely as possible.
- (16) That areas of steep slopes, where high cuts and fills may be required, are avoided.
- (17) That natural drainage systems are preserved to the extent possible and extreme care is exercised in areas adjacent to natural watercourses and in locating artificial drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems.
- (18) That natural protective vegetation remains undisturbed if at all possible.
- (19) That adequate measures are provided to prevent disruption and degradation of fish and wildlife habitats, freshwater wetlands and coastal waters by on-site activities during and after construction.
- (20) That landscaping and setbacks maximize compatibility with and protection of adjacent fish and wildlife habitats, freshwater wetlands and coastal waters and the retention of scenic qualities.
- (21) That adequate measures are provided to minimize flooding and erosion hazards through nonstructural means, long-term structural measures and appropriate siting of structures
- (22) That the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited.
- (23) That the velocity of the runoff water on all areas subject to erosion is reduced below that necessary to erode the materials.
- (24) That ground cover is applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
- (25) That runoff from a site is collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
- (26) That the angle for graded slopes and fills is limited to an angle no greater than that which can be retained by vegetative cover or other erosion control devices or structures.
- (27) That the length as well as the angle of graded slopes shall be minimized to reduce the erosive velocity of runoff water.
- (28) That trees having a diameter of four (4) inches or more at thirty-six (36) inches above ground level are retained where possible, except if they are diseased.
- (29) That within the waterfront proposed structures will be sited inland as much as possible, increasing open space in the waterfront, enhancing the visual character and creating or maintaining views of the Hudson River, minimizing exposure to flooding and reducing runoff and nonpoint source water pollution.

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### C. Procedure.

- (1) Presubmission. Prior to the submission of a formal site plan, the applicant shall meet in person with the Planning Board and/or their designated representative to discuss the proposed site plan in order to determine which of the subsequent requirements may be necessary in developing and submitting the required site plan.
- (2) Within six (6) months following the presubmission conference, the site plan and any related information be submitted to the Building Inspector in as many copies, not to exceed ten (10), as may be agreed during the presubmission conference. The site plan shall be accompanied by a fee in accordance with the schedule of fees of the Village of Athens. If not submitted within this six- month period, another presubmission conference may be required.
- (3) The Building Inspector shall certify on each original or amended site plan whether the plan meets the requirements of all the provisions of this chapter other than those of this section regarding site plan review. He shall act to certify the application or return it to the applicant for completion or revision within thirty (30) calendar days of submission by the applicant.
- (4) Following such certification, the application shall be forwarded to the Planning Board at least ten (10) days prior to its next regular meeting which shall be considered the official submission date.
- (5) Simultaneously, with its submission to the Planning Board, the certified application shall be forwarded to the Fire Chief, Highway Superintendent and, where required, to the Town and Village of Athens Joint Waterfront Advisory Committee, the County Planning Board, County Highway Department and any other agency that the Building Inspector deems appropriate.
- (6) Whenever the particular circumstances of a proposed development require compliance with either special use permit procedures as found in this Zoning Law or requirements of the village's Subdivision of Land Law, Waterfront Consistency Review Law or local SEQR regulations, then the Village Planning Board, Zoning Board of Appeals and Waterfront Advisory Committee shall attempt to integrate, where possible, site plan review as required by this section with procedural and submission requirements for such other compliance.
- (7) The Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. Such hearing shall be held within sixty-two (62) days from the day an application for site plan approval is made. Public notice thereof must be given by publication in the official newspaper of such hearing at least five (5) days prior to the date thereof.
- (8) The Planning Board shall act to approve, disapprove or approve with conditions any such plan within sixty-two (62) days after the public hearing or, if no hearing is held, within sixty-two (62) days from the day an application for site plan approval is made. Conditional approval by the Planning Board shall include written findings upon any site plan element found contrary to the provision or intent of this chapter. In reviewing the application, the Planning Board shall consider whether a proposed plan will conform to the intent and requirements of this chapter and/or what revisions are appropriate. All conditions must be satisfied prior to issuance of a building permit.
- (9) Amendments to a previously approved site plan shall be acted upon in the

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same manner as the original site plan.

- D.** Time limit on validity of approval. Approval of a site plan by the Planning Board shall be valid for a period of one hundred eighty (180) days from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during this period shall cause the site plan approval to become null and void. Upon application, the Planning Board may extend the year from the date of original approval.
- E.** Required submissions. The data set forth below shall be submitted in support of a site plan approval. The Planning Board, at the request of the applicant, may waive such information as it deems not relevant to its review or which would cause unusual hardship to obtain.
- (1)** Legal data.
- (a)** The names of all owners of record of the property in question and of all adjacent property and the lot, block and section number of such properties as shown on the Official Town Tax Assessment Maps.
  - (b)** Existing zoning and special district boundaries.
  - (c)** Boundaries of the property, building or setback lines, if different from those required in the Zoning Law, and lines of existing streets and lots as shown on the Official Assessment Maps. Reservations, easements and areas dedicated to public use shall also be shown.
- (2)** Existing buildings. A drawing showing the location of existing buildings on the site and or adjacent property if within two hundred (200) feet of the property line.
- (3)** Development data.
- (a)** Title of development, date, North point, scale and the name and address of the record owner, engineer, architect, land planner or surveyor preparing the plan.
  - (b)** The proposed use or uses of land and buildings and proposed location of buildings.
  - (c)** All means of vehicular ingress and egress to and from the site onto public streets.
  - (d)** The location and design of any off-street parking areas.
  - (e)** The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternative means of water supply and sewage disposal and treatment.
  - (f)** The location of all vegetation existing on site.
  - (g)** The proposed location, direction, power and hours of operation of proposed outdoor lighting.
  - (h)** The proposed screening and landscaping plan.
  - (i)** Proposed stormwater drainage system.
- (4)** Additional data which may be required. Where, due to special conditions peculiar to a site or the size, nature or complexity of the proposed use or development of land or buildings, the Planning Board finds that all or portions of the additional data listed below are necessary for proper review of the application, it may require any or all of the data to be included in the required submission.
- (a)** A survey of the property by a licensed surveyor showing all appropriate dimensions, angles, bearings and other relevant data.
  - (b)** Location of existing water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
  - (c)** Existing contours with intervals of five (5) feet or less, referred to a datum satisfactory to the Board, and all proposed grades.
  - (d)** All proposed lots, easements and public and community areas; all proposed streets with profiles indicating grading and cross sections showing the width of the

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roadway, the location and width of the sidewalk and the location and size of utility lines.

### ARTICLE VII Miscellaneous Provisions

#### ***§ 92-33. Interpretation.***

- A. In their interpretation and application, the provisions of this chapter shall be held to be minimum, requirements, adopted for the promotion of the public health, morals, safety or the general welfare.
- B. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or local laws, the more restrictive or that imposing the higher standard shall govern.
- C. This chapter shall not abridge the provisions of a validly adopted Flood Hazard, Building Code,<sup>5</sup> Mobile Home Local Law,<sup>6</sup> Subdivision or other regulations.<sup>7</sup>

#### ***§ 92-34. Amendments.***

The Village Board of Trustees may from time to time on its own motion or on petition or on the recognition of the Planning Board, Zoning Commission or other body amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing. Every such proposed amendment or change shall be enacted in conformance with the provisions of the Village Law of the State of New York.

### ARTICLE VIII Definitions

#### ***§ 92-35. Word usage; definitions.***

- A. Except where specifically defined herein, all words in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged or designed to be used or occupied.”
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or structure and located in the same lot with such principal use or structure.

AGRICULTURE — Raising of crops, animals and animal products; forestry; other commonly

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accepted agricultural operations for commercial purposes, including the sale of products grown on the premises.

**ALTERATION** — As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another. **[Added 7-8-1993 by L.L. No. 4-1993]**

**AUTOMOBILE SERVICE STATION** — Any area of land, including any structure or structures thereon, that is or are used or designed to be used for the supply of gasoline or oil or other fuel for the population of motor vehicles. For the purpose of this chapter, there shall also be deemed to be included within this term any area or structure used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing of all motor vehicles.

**BUILDING** — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or other real property.

**BUILDING HEIGHT** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the decline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. **[Added 7-8-1993 by L.L. No. 4-1993]**

**COMMERCIAL USE** — All wholesale and retail sales and services, professional offices, resorts and restaurants.

**DWELLING, MULTIPLE-FAMILY** — A building or group of buildings, designed for year-round occupancy by more than two (2) families, including apartment houses and group houses but excluding hotels and rooming houses.

**DWELLING, SINGLE-FAMILY** A detached residential dwelling unit other than a mobile home, designed for and occupied exclusively by one (1) family.

**DWELLING, TWO-FAMILY** -- A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

**FAMILY**— One (1) or more persons occupying premises and living together as a single housekeeping unit, subject to a limit of not more than three (3) unrelated persons eighteen (18) years of age or older. **[Added 7-8-1993 by L.L. No. 4-1993]**

**FLOOD HAZARD AREA** — That area subject to flooding on the average once in every one-hundred (100) years, based on information supplied by the Federal Emergency Management Agency.

**HOME OCCUPATION** — Any commercial use customarily conducted entirely within a dwelling or accessory structure which is clearly incidental and secondary to the use of the lot; does not change the character of the dwelling; has no external evidence of such use or exterior storage of materials or equipment; and is carried on by residents of the dwelling, or dwellings, except that no more than two (2) persons, not residents of the dwelling, may be employed.

**JUNKYARD** — Any place of storage or deposit, whether in connection with another business or not, where a person, corporation or other entity collects, buys, sells, trades, recycles, processes, dismantles, separates, stores or otherwise handles used metals, machinery, parts,

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clothing, glass or plastic in quantities in excess of ordinary household use, whether operated for profit or not. **[Added 7-8-1993 by L.L. No. 4-1993]**

**LIGHT INDUSTRY**— Any industrial or warehousing operation that meets the performance standards of this chapter, which is totally contained inside an enclosure or whose operation or storage is totally screened from view, and which does not create excessive off-site noise or pollution and does not make excessive demands on public roads, water and sewage facilities or other community facilities.

**LOT** — A parcel of land occupied, or designed to be occupied, by one (1) building and the accessory buildings or uses customarily incident to it, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown on a duly recorded plot. If more than one (1) lot of record is held in common ownership and said lots are contiguous and substandard in size to the minimum lot size in the zoning district, they shall, for purpose of this chapter, be held as one (1) lot or as many lots as shall leave no lot substandard.

**LOT LINE** — A boundary line of a lot.

**LOT LINE, FRONT** — The exterior line or right-of-way of a road on which a lot fronts or abuts.

**LOT LINE, REAR** Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

**LOT LINE, SIDE** — Any lot line not a front lot line or a rear lot line.

**LOT WIDTH** — The average distance between side lot lines taken at the front yard or building line and measured at right angles to the side lot lines along a parallel to the street.

**MOBILE HOME** — A transportable single-family dwelling, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for nontransient residential purposes and which conforms to Mobile Home Manufacturers Association Mobile Home Standards for Plumbing, Heating and Electrical Systems.

**MOBILE HOME PARK** — A parcel of land which has been planned for the placement of two (2) or more mobile homes, appurtenant structures or additions.

**NONCONFORMING USE** — The prior lawful use of land or of a building or structure which subsequently is prohibited by zoning regulations pertaining to the district in which the building or land is situated.

**NURSING, REST OR CONVALESCENT HOME** — Any building other than a hospital where persons are housed or lodged and furnished with meals and nursing care for hire. **[Added 7-8-1993 by L.L. No. 4-1993]**

**OUTDOOR RECREATION** — Uses, including picnic areas, ball parks, sportsman's clubs, swimming facilities and other recreational activities having an outdoor orientation. This includes private and commercial.

**PARKING SPACE** — An off-street space available for the parking of one (1) motor vehicle and having an area of not less than two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

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**PRIVATE ROAD** — Any road not publicly maintained by the village.

**RESTAURANT** — A place, other than a tavern, for the preparation, serving and consuming, indoors, of food and beverages. **[Added 7-8-1993 by L.L. No. 4-1993]**

**ROAD FRONTAGE** — The length of the lot which borders any public road.

**SETBACK** — The horizontal distance between the lot line and the part of the building nearest to the lot lines. Where the property line is not clearly defined, the setback will be forty (40) feet from the center of a village street and twenty (20) feet from a state road right-of- way.

**SPECIAL USE** — A use that would not be appropriate generally or without restriction throughout the zoning district, but which is controlled as to the number, area, location or relation to the village, would promote the public health, safety, order, comfort, convenience, appearance, prosperity and general welfare. Such uses shall be permitted when the Zoning Board of Appeals finds that they meet the specific criteria provided in this chapter for them,

**STREET** — A public or private way which affords the principal means of access to abutting properties, including any highway. **[Added 7-8-1993 by L.L. No. 4-1993]**

**STRUCTURE** — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. **[Added 7-8-1993 by L.L. No. 4-1993]**

**TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE** **[Added 10-26-1994 by L.L. No. 2-1994; amended 12-14-1994 by L.L. No. 4-1994]** — A residence (which may be a mobile home) that is:

- (1) Located on the same lot as a residence made uninhabitable by fire, flood and other natural disaster and occupied by the persons displaced by such disaster;
- (2) Located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or
- (3) Located on a nonresidential construction site occupied by persons having construction or security responsibilities over such construction site.

**VARIANCE** — A relaxation of the terms of the Zoning Chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship.

**YARD, FRONT** — A yard extending from the front lot line into the interior lot area.

**YARD, REAR** — A yard extending from the rear lot line into the interior lot area.

**YARD, SIDE** — A yard extending from the side lot line into the interior lot area.



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## Summary of the Zoning Local Law for the Village of Athens

Requirements by major districts. The Zoning Law divides the Village into eight (8) major districts. The following chart summarizes the requirements in each district

| Districts | Permitted Use  | Special Use   | Minimum Lot Size  |                        | Yard Depth            |                       |                       | Building Height (feet) |
|-----------|--|---|---|------------------------|-----------------------|-----------------------|-----------------------|------------------------|
|           |  |   | Area (square feet)  | Width (feet)           | Front (feet)          | Side (feet)           | Rear (feet)           |                        |
| OS/C      | Agriculture, outdoor recreation, forestry  | None  | No specific standards   |                        |                       |                       |                       |                        |
| RL        | Single-family dwellings, outdoor recreation, agriculture, home occupations   | 2-family dwellings, hospitals, nursing or convalescent homes, tourist accommodations, educational, religious or philanthropic institutions, mobile homes, mobile home parks | 5 acres<br>10,000 <sup>1</sup><br>2.5 acres <sup>4</sup>                  | 150<br>75 <sup>5</sup> | 40<br>20 <sup>5</sup> | 20<br>10 <sup>5</sup> | 40<br>20 <sup>5</sup> | 30                     |
| RR        | Single-family dwellings, outdoor recreation, agriculture, home occupations   | Hospitals, nursing or convalescent homes, tourist accommodations, educational, religious or philanthropic institutions, mobile home parks                                   | 3 acres<br>10,000 <sup>1</sup>  | 150<br>75 <sup>1</sup> | 40<br>20 <sup>1</sup> | 20<br>10 <sup>1</sup> | 40<br>20 <sup>1</sup> | 30                     |
| EM        | Single- and 2-family dwellings, outdoor recreation, home occupations   | Multiple-family dwellings, offices, hospitals, nursing or convalescent homes, educational, religious or philanthropic institutions  | 10,000  | 75                     | 20                    | 10                    | 20                    | 30                     |
| CR        | Single- and 2-family dwellings, professional or business offices, retail stores and shops, hotels, restaurants, banks, savings and loan institutions                 | Multiple-family dwellings   | No specific standards<br>Placement must be in compliance with surrounding |                        |                       |                       |                       | 50                     |
|           | Offices, retail stores, restaurants, banks   | Single-, 2- and multiple-family dwellings, automobile service stations, auto sales, shopping centers  | 50,000  | 50                     | None <sup>2</sup>     | 25                    | 25                    | 50                     |
| I         | —  | Shopping centers, factories, retail sales, offices, motels, restaurants, research and testing laboratories, wholesale boats   | 20,000  | 100                    | 45                    | 25                    | 25 <sup>3</sup>       | 50                     |
| W         | Recreation facilities and cultural, educational or scientific uses requiring waterfront location; parks and playgrounds; structures needed for navigational purposes | Commercial uses requiring water transportation; restaurants; single-family homes; public utilities; marinas and related uses  | 5 acres<br>10,000 <sup>1</sup>  | 150<br>75 <sup>1</sup> | 10                    | 25                    | 25 <sup>3</sup>       | 25                     |

II. Overlay districts. In addition to the above, there are requirements for two (2) additional overlay districts:

- A. Special Flood Hazard Districts. These areas are flooded on the average of in every one hundred (100) years based on United States Government information. All new structures here require a special permit to ensure that federal flood guidelines are met. These regulations are needed to make federally subsidized flood insurance available to the citizens of Athens.
  - B. Historic Districts. These areas have been nominated to the National Register of Historic Places. To preserve the character of these districts, all permit applications must be reviewed by the Village of Athens Planning Board. This review should help ensure that the character of the Historic Districts will not be destroyed.
- III. Administration. The Zoning Law will be enforced by a Code Enforcement Officer, appointed by the Mayor with the approval of the Board of Trustees. A Board of Appeals will be established to interpret the law and issue special permits and variances.

**NOTES:**

- <sup>1</sup>If serviced by public sewers and water.
- <sup>2</sup>No specific standards. Placement must be in compliance with surrounding buildings.
- <sup>3</sup>From the mean high waterline of the Hudson River.
- <sup>4</sup>If served with public water.
- <sup>5</sup>If serviced by public sewers and water or public water only.