

TOWN OF DELAWARE  
SULLIVAN COUNTY, NEW YORK

LOCAL LAW NO. <sup>110000</sup> 2 - 1993  
APRIL 21, 1993

A LOCAL LAW AMENDING THE TOWN OF DELAWARE "ZONING LAW" (LOCAL LAW NO. 2 OF 1988) TO ADDRESS SUBSTANTIAL CONFORMANCE WITH THE UPPER DELAWARE SCENIC AND RECREATIONAL RIVER CORRIDOR RIVER MANAGEMENT PLAN AND MAKE A NUMBER OF OTHER CHANGES AS FOLLOWS:

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BE IT ENACTED By The Town Board of the Town of Delaware, Sullivan County, New York, as follows:

..Item 1 - Add the following to the list of Districts in Section 301.

- CAL-B-1 - Callicoon Business District
- CAL-R-1 - Callicoon Residential District

..Item 2 - Add the following Section 301.1.

301.1 Callicoon Hamlet Area

For the purposes of this Zoning Law and as envisioned by the Upper Delaware Scenic and Recreational River Management Plan, the "Callicoon Hamlet" Area is hereby designated and delineated on the Town of Delaware Official Zoning Map adopted as part of this Law and is comprised of the CAL-B-1 District and the CAL-R-1 District.

..Item 3 - Amend Section 401 Schedule of District Regulations to read as follows:

**DELAWARE RIVER DISTRICT - DR**

**INTENT:** The DR-Delaware River District is intended to provide land uses substantially in accord with the provisions and purposes of the Upper Delaware Scenic and Recreational River (UDSRR) corridor as defined and designated as a "Scenic Segment" or "Recreational Segment" in the November 1986, Upper Delaware Final River Management Plan (RMP) prepared by the Conference of Upper Delaware Townships in cooperation with the National Park Service. This District is further intended to preserve the scenic integrity of that portion of the Upper Delaware River Corridor within the Town of Delaware, while allowing recreational use and development of the area, to the extent which would remain compatible with the aforementioned RMP.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES	DEVELOPMENT STANDARDS
<ul style="list-style-type: none"> <li>-Agriculture excluding intensive livestock operations and cage-type poultry houses</li> <li>-Fish hatcheries</li> <li>-Forestry enterprises</li> <li>-Greenhouses/nurseries, commercial</li> <li>-Group homes</li> <li>-One and two-family dwellings*</li> </ul> <p>* A two-family dwelling shall require double the lot size of a single-family dwelling. See Section 613.1 for two-family conversions.</p>	<ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Farm stands in association with an agricultural use</li> <li>-Home gardening, home nurseries and home greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Private parking areas and garages</li> <li>-Private stables</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul>	<ul style="list-style-type: none"> <li>-Bed &amp; Breakfast establishments</li> <li>-Boarding or lodging homes</li> <li>-Cemeteries</li> <li>-Clubs/lodges, private (2)</li> <li>-Golf courses (excluding miniature golf or driving ranges) (1)</li> <li>-Sawmills</li> <li>-Residential cluster development</li> <li>-Temporary offices</li> <li>-Tourist recreation facilities (1,2)</li> </ul>	<p>The following standards shall be applicable to all uses unless otherwise regulated by this Zoning Law.</p> <p>Lot area - 2 acres                      Lot width - 200 ft.                      Lot depth - 200 ft.                      Front Yard - 50 ft.                      One side Yard - 50 ft.                      Both side yards - 100 ft.                      Rear yard - 50 ft.                      Maximum permitted building height - 35 ft.                      Lot coverage - 10,000 sq. ft. or 15% whichever is less.</p>

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the DR District.

(1) - Not permitted in Scenic River Segment as defined by the UDSRR RMP.

(2) - But not including intensive use recreational facilities.

**CALLICOON BUSINESS DISTRICT - CAL-B-1**

**INTENT:** The intent of the CAL-B-1-Callicoon Business District is to recognize the unique character of the Callicoon Hamlet Area and provide for future commercial development in the Hamlet Area; and at the same time, provide for the substantial conformance to the River Management Plan.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES	DEVELOPMENT STANDARDS (* single family)
<ul style="list-style-type: none"> <li>-Agriculture, excluding intensive livestock operations and cage type poultry houses</li> <li>-Agricultural service establishments</li> <li>-Banks</li> <li>-Bed &amp; Breakfast establishments</li> <li>-Boarding or lodging homes</li> <li>-Child care centers</li> <li>-Clubs/lodges, private</li> <li>-Eating and drinking establishments</li> <li>-Fish hatcheries</li> <li>-Forestry enterprises</li> <li>-Funeral homes</li> <li>-Greenhouses/nurseries, commercial</li> <li>-Group homes</li> <li>-Hotels and motels</li> <li>-Institutional uses</li> <li>-Medical offices</li> <li>-One and two-family dwellings</li> <li>-Office buildings</li> <li>-Professional offices</li> <li>-Public uses</li> <li>-Real estate and insurance offices</li> <li>-Retail stores</li> <li>-Service establishments</li> <li>-Studios</li> <li>-Tourist recreational facilities</li> <li>-Vehicle and equipment sales, supply and service operations</li> <li>-Wholesale businesses</li> </ul>	<ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Farm stands in association with an agricultural use</li> <li>-Home gardening, home nurseries and home greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Off-street parking and loading facilities in association with an approved use</li> <li>-Private parking areas and garages</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul>	<ul style="list-style-type: none"> <li>-Cemeteries</li> <li>-Commercial and public recreational facilities</li> <li>-Commercial communications facilities</li> <li>-Gasoline service station</li> <li>-Golf courses excluding miniature golf or driving ranges</li> <li>-Hospitals, medical clinics and nursing homes</li> <li>-Manufactured housing sales and service facilities</li> <li>-Manufacturing, light</li> <li>-Multiple dwellings</li> <li>-Multiple occupant commercial buildings</li> <li>-Outdoor storage facilities</li> <li>-Printing and publishing</li> <li>-Research and development</li> <li>-Residential cluster development</li> <li>-Sawmills</li> <li>-Semi-public uses</li> <li>-Temporary offices</li> <li>-Theaters</li> <li>-Warehouses and mini-warehouses</li> </ul>	<p>MINIMUM PERMITTED</p> <p>With Central Water and Central Sewage                      Lot Area-10,000 sq ft                      Lot Width - 50 ft                      Lot Depth - 100 ft                      Front Yard - 25 ft; or may be reduced to conform to adjacent existing buildings                      One Side Yard - 10 ft                      Both Side Yards- 20 ft                      Rear Yard - 30 ft</p> <p>Without Central Water and Central Sewage                      Lot Area- 2 acres                      Lot Width - 200 ft                      Lot Depth - 200 ft                      Front Yard - 50 ft                      Side Yards - 25 ft                      Rear Yard - 25 ft</p> <p>MAXIMUM PERMITTED                      Building Height- 40 ft                      Lot Coverage - 65%</p>

\*Single-family residential development in the CAL-B-1 District shall comply with R-1 District bulk and density standards.

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the CAL-B-1 District.

**CALLICOON RESIDENTIAL DISTRICT - CAL-R-1**

**INTENT:** The CAL-R-1-Callicoon Residential District is intended to provide for the same type of residential district uses in the Callicoon Hamlet Area as in other residential areas of the Town of Delaware; but, to make such uses subject to the other requirements of this Law which are applied to the Upper Delaware Scenic and Recreational River Corridor Area.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES	DEVELOPMENT STANDARDS
SAME AS R-1 RESIDENTIAL DISTRICT			

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the CAL-R-1 District.

**RESIDENTIAL DISTRICT - R-1**

**INTENT:** The Residential District is intended to provide amounts of land adequate to meet the anticipated housing needs of the Town, accommodating both low and medium density residential development as well as other compatible uses which will complement residential activities.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES	DEVELOPMENT STANDARDS
<ul style="list-style-type: none"> <li>-Group homes</li> <li>-Single-family detached dwellings</li> <li>-Two-family dwellings</li> </ul>	<ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Home gardening, home nurseries and home greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Private parking areas and garages</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul>	<ul style="list-style-type: none"> <li>-Bed and breakfast establishments</li> <li>-Cluster development</li> <li>-Multiple dwellings</li> <li>-Public recreational facilities</li> <li>-Public schools</li> <li>-Public buildings and uses</li> <li>-Semi-public buildings and uses</li> <li>-Temporary offices</li> </ul> <p>NOTE: See Section 616 for additional special uses.</p>	<p>Minimums Permitted</p> <ul style="list-style-type: none"> <li>Lot Area - 40,000 sq. ft.*</li> <li>Lot Width - 150 ft.*</li> <li>Lot depth - 150 ft.*</li> <li>Front Yard - 50 ft.*</li> <li>One Side yard - 30 ft.*</li> <li>Both Side Yards - 70 ft.*</li> <li>Rear Yard - 50 ft.*</li> </ul> <p>Maximum Permitted</p> <ul style="list-style-type: none"> <li>Building height - 35 ft.</li> <li>Lot Coverage - 25%</li> </ul> <p>*May be reduced 50% with central water and sewage</p>

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the R-1 District.

**RURAL DISTRICT - RU**

**INTENT:** The intent of this District is to identify land environments conducive to the mutual existence of agricultural and low density residential uses as well as certain unobstructive commercial activities, insuring both adequate amounts and choices of areas suitable for these respective uses.

PRINCIPAL PERMITTED USES	SPECIAL USES	SPECIAL USES (cont)	DEVELOPMENT STANDARDS
<ul style="list-style-type: none"> <li>-Agricultural service establishments</li> <li>-Agriculture including intensive livestock operations and cage-type poultry houses</li> <li>-Bed and breakfast establishments</li> <li>-Boarding or lodging homes</li> <li>-Child care centers</li> <li>-Greenhouses/nurseries, commercial</li> <li>-Fish hatcheries</li> <li>-Forestry enterprises</li> <li>-Group homes</li> <li>-Insurance offices</li> <li>-Professional offices</li> <li>-Real estate offices</li> <li>-Single-family detached dwellings</li> <li>-Two-family dwellings</li> </ul> <p style="text-align: center;"><b>ACCESSORY USES</b></p> <ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Farm stands in association with an agricultural use</li> <li>-Home gardening, home nurseries and home greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Private parking areas and garages</li> <li>-Private stables</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul>	<ul style="list-style-type: none"> <li>-Agricultural products processing*</li> <li>-Airports*</li> <li>-Animal hospitals</li> <li>-Campgrounds or RV parks</li> <li>-Cemeteries</li> <li>-Clubs/lodges, private</li> <li>-Cluster development</li> <li>-Commercial radio, telephone, and TV antennae*</li> <li>-Contractors yards</li> <li>-Country clubs</li> <li>-Flea market*</li> <li>-Funeral parlors</li> <li>-Gasoline service station</li> <li>-Golf courses excluding miniature or driving ranges</li> <li>-Health facilities</li> <li>-Hotels and motels</li> <li>-Institutional uses*</li> <li>-Junkyards</li> <li>-Kennels</li> <li>-Manufacturing and industry*</li> <li>-Manufacturing, light*</li> <li>-Manufactured home sales operations</li> <li>-Medical clinics</li> <li>-Mobile home parks</li> <li>-Multiple occupant commercial buildings</li> </ul>	<ul style="list-style-type: none"> <li>-Natural resources processing*</li> <li>-Natural resource uses</li> <li>-Office buildings</li> <li>-Private schools</li> <li>-Public schools</li> <li>-Public buildings and uses</li> <li>-Recreational facilities, private</li> <li>-Recreational facilities, public</li> <li>-Research and development facilities</li> <li>-Residence attached to a commercial use</li> <li>-Restaurants</li> <li>-Retail and service establishments</li> <li>-Sawmills</li> <li>-Self-storage facilities*</li> <li>-Semi-public buildings and uses</li> <li>-Solid waste facilities and staging areas</li> <li>-Stables, commercial</li> <li>-Taverns</li> <li>-Temporary offices</li> <li>-Tourist recreational and lodging facilities</li> <li>-Vehicle and equipment repair operations</li> <li>-Vehicle and equipment sales operations</li> <li>-Veterinary clinics</li> <li>-Warehouses</li> <li>-Wholesale businesses</li> </ul>	<p>Minimums Permitted</p> <p>Lot Area - 80,000 sq. ft.*</p> <p>Lot Width - 200 ft.*</p> <p>Lot Depth - 200 ft.*</p> <p>Front Yard - 50 ft.*</p> <p>One Side Yard - 30 ft.*</p> <p>Both Side Yards - 70 ft.*</p> <p>Rear Yard - 50 ft.*</p> <p>Maximum Permitted</p> <p>Building Height - 45 ft.</p> <p>Lot Coverage - 15%</p> <p>*May be reduced 50% with central water and sewage</p>

NOTE: Uses marked with an \* shall require a minimum of four (4) acres. Other uses may be governed by other provisions of this Law requiring larger parcel sizes.

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the RU District.

**BUSINESS DISTRICT - B-1**

**INTENT:** The intent of this District is to provide adequate land areas for the normal expansion of business and commercial activities within the Town, encouraging the development of retail and service establishments designed to serve the needs of the surrounding areas and permitting the location of other compatible uses.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES (cont)	DEVELOPMENT STANDARDS
<ul style="list-style-type: none"> <li>-Agricultural service establishments</li> <li>-Bed and breakfast establishments</li> <li>-Boarding and lodging houses</li> <li>-Car and truck washes</li> <li>-Child care centers</li> <li>-Greenhouses/nurseries, commercial</li> <li>-Forestry enterprises</li> <li>-Group homes</li> <li>-Hotels and motels</li> <li>-Insurance office</li> <li>-Medical clinics</li> <li>-Office buildings</li> <li>-Printing and publishing</li> <li>-Professional offices</li> <li>-Real estate office</li> <li>-Residence attached to a commercial use</li> <li>-Restaurants</li> <li>-Retail establishments</li> <li>-Service establishments</li> <li>-Single-family detached dwellings</li> <li>-Studios</li> <li>-Taverns</li> <li>-Tourist recreation and lodging facilities</li> <li>-Two-family dwellings</li> <li>-Vehicle and equipment repair operations</li> <li>-Vehicle and equipment sales operations</li> <li>-Warehouses</li> <li>-Wholesale businesses</li> </ul>	<ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Farm stands in association with an agricultural use</li> <li>-Home gardening, home nurseries and home greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Off street parking and loading facilities</li> <li>-Private parking areas and garages</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul> <p style="text-align: center;"><b>SPECIAL USES</b></p> <ul style="list-style-type: none"> <li>-Adult businesses</li> <li>-Agricultural products processing</li> <li>-Amusement arcade</li> <li>-Cemeteries</li> <li>-Child care centers</li> <li>-Cluster development</li> <li>-Contractors yards</li> </ul>	<ul style="list-style-type: none"> <li>-Country clubs</li> <li>-Flea market</li> <li>-Funeral parlors</li> <li>-Gasoline service station</li> <li>-Golf courses excluding miniature or driving ranges</li> <li>-Health facilities</li> <li>-Institutional uses</li> <li>-Manufacturing and industry</li> <li>-Manufacturing, light</li> <li>-Multiple occupant commercial buildings</li> <li>-Private clubs/lodges</li> <li>-Private schools</li> <li>-Public schools</li> <li>-Public buildings and uses</li> <li>-Recreational facilities, private</li> <li>-Recreational facilities, public</li> <li>-Research and development facilities</li> <li>-Self-storage facilities</li> <li>-Semi-public buildings and uses</li> <li>-Temporary offices</li> <li>-Theaters</li> <li>-Veterinary clinics</li> </ul>	<p>Minimum Permitted                      Lot Area - 7,500 sq. ft.                      Lot Width - 50 ft.                      Lot Depth - 100 ft.                      Front Yard - 25 ft.; or may be reduced to conform to adjacent existing buildings                      One Side Yard - 10 ft.                      Both Side Yards - 20 ft.                      Rear Yard - 30 ft.</p> <p>Maximum Permitted                      Building Height - 60 ft.                      Lot Coverage - 65%</p>

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the B-1 District.

**PLANNED UNIT DEVELOPMENT - PUD**

**INTENT:** The intent of this district is to provide landowners with the flexibility to develop functionally integrated residential or resort communities or complexes where sufficient open space can be provided and safeguards instituted to protect the public health, safety and welfare.

PRINCIPAL PERMITTED USES	ACCESSORY USES	SPECIAL USES	DEVELOPMENT STANDARDS
All uses permitted are special uses	<ul style="list-style-type: none"> <li>-Carports</li> <li>-Customary accessory uses and structures</li> <li>-Essential services</li> <li>-Farm stands in association with an agricultural use</li> <li>-Gardens</li> <li>-Home gardening, nurseries and greenhouses</li> <li>-Home occupations</li> <li>-Keeping of not more than 3 dogs over 6 months of age</li> <li>-Off street parking and loading facilities</li> <li>-Private parking areas and garages</li> <li>-Private swimming pools</li> <li>-Signs in association with an approved use</li> <li>-TV satellite dishes accessory to a residential structure</li> <li>-Tool sheds</li> </ul>	<ul style="list-style-type: none"> <li>-Commercial stables and riding academies</li> <li>-Golf courses</li> <li>-Hotels and motels</li> <li>-Multiple dwellings</li> <li>-Other commercial recreational facilities</li> <li>-Recreational facilities, public</li> <li>-Recreational vehicle parks</li> <li>-Retail stores</li> <li>-Ski areas</li> <li>-Single-family cluster development</li> <li>-Tourist recreation facilities</li> </ul>	<p>Maximum Density: 2 dwelling units or equivalent dwelling units per acre (See Section 702.2 for method of calculation)</p> <p>Other Maximums:</p> <p>Building Height - 45 ft. (May go to 60 ft. provided building site is not closer than 300 ft. to property borders)</p> <p>Lot Coverage - 15%</p>

NOTE: Uses not specifically listed by this Schedule shall not be permitted in the PUD District.

••Item 4 - Amend Section 613 to read as follows:

613 Upper Delaware Scenic and Recreational River Corridor (UDSRR)

In addition to the District Regulations applicable to the DR, CAL-B-1, and CAL-R-1 Districts, the following special performance standards shall apply to all uses and/or expansion of uses located in said Districts.

613.1 Density in the DR District

Residential density in the DR District shall not exceed a net density of one (1) dwelling unit per two (2) acres. Nevertheless, a principal structure existing at the time of the adoption of this provision of this Law may be converted to a two-family dwelling, upon issuance of a permit for same by the Building Inspector, provided the following conditions and all other applicable requirements are satisfied:

- A. The parcel on which the principal structure is located shall not be less than two (2) acres in size, excluding any public road rights-of-way.
- B. Sewage disposal is provided in accord with New York Department of Health and all other applicable sewage disposal requirements for a two-family dwelling. In the case where the use of an existing on-site sewage disposal system is proposed, the applicant shall provide certification from a professional engineer of the adequacy and compliance of said system.

### 613.2 Ridgelines

This Section shall be applicable in all DR, CAL-B-1, and CAL-R-1 Districts. Any proposal for a building or structure or use located within one-hundred (100) feet of the ridgeline as designated in the River Management Plan or which is proposed at a lower elevation and which would be visible from the Delaware River shall be considered a special use and the developer shall submit for approval a plan detailing how the proposed use will be developed in accord with the intent of the RMP. In addition to the following standards all other applicable requirements of this Law shall apply:

- A. The requirements of Section 614 of this Law, "Development on Steep Slopes", shall apply.
- B. Special attention shall be given to the preservation of trees and other vegetation.
- C. The Planning Board may require additional vegetative plantings and/or fencing in accord with Section 615 of this Law to effect the screening required to minimize the impact on the Upper Delaware Scenic and Recreational River.

### 613.3 Special Setback Requirements

No building, structure or any part of any septic system in the DR, CAL-B-1, or CAL-R-1 Districts shall be located less than one-hundred (100) feet from the normal high water mark of the Delaware River.

### 613.4 Other Conditions for Special Uses

In addition to the standards contained in Section 801.1 of this Law, the Planning Board shall, in approving special uses in the DR, CAL-B-1, and CAL-R-1 Districts, take into consideration the effect of the proposed use on the UDSRR and shall attach any and all conditions of approval necessary to provide protection to the UDSRR from impacts of development. Said condition may include, but shall not be limited to, increased setbacks; buffers, landscaping and fencing; special stormwater control facilities; limitations on the location, number and size of advertising signs; more restrictive lot coverage limitations; and more restrictive building height limitations.

### 613.5 Clearcutting Timber for Forest Products

Clearcutting of timber in the DR, CAL-B-1, and CAL-R-1 Districts in excess of two (2) acres in size, which shall include the cumulative cutting of smaller plots as part of the cutting of a single tract, shall be considered special uses in order to assure that impacts to soil, water, vegetation and wildlife resources are minimized, and in addition to all other applicable regulations of this Law the following standards shall apply:

- A. The applicant shall provide a timber harvesting plan prepared by a professional forester.
- B. A soil erosion and sedimentation control plan meeting the requirements of the County Soil and Water Conservation District shall be implemented on the site.
- C. Timber harvesting in that area within fifty (50) feet of the normal high water mark of the Delaware River or any stream, shall be of the selective cut method only and not less than fifty percent (50%) of the overhead canopy shall be maintained.

### 613.6 Signs

In addition to the general sign regulations in Section 604.5 of this Law, the following special standards in this Section 613.6 shall apply to the DR, CAL-B-1, and CAL-R-1 Districts.

#### A. Signs permitted in the DR District

1. All signs permitted under Section 604.1 for R-1 Districts except as otherwise specifically addressed in this Subsection A.
2. One (1) sign advertising the sale or rental of the premises on which the sign is located provided the sign does not exceed ten (10) square feet in area and is non-illuminated.
3. Non-illuminated announcement signs for schools, churches and other institutions, not exceeding one (1) per property and six (6) square feet in area.
4. One (1) non-illuminated sign for the purpose of identifying the location of a business or trade, provided such sign is located on the business premises and relate only to the use of that particular property and further provided that the sign does not exceed six (6) square feet in area.
5. Non-illuminated advertising signs located on any property provided such signs are not located along or directed toward the Delaware River and advertise only a business located in the Town of Delaware or adjoining municipalities. Such signs shall be limited to one (1) per business per Town, County or State

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road leading to the location of the business and shall not exceed six (6) square feet each in area. The total number of such signs erected along any such road in both directions shall be limited to one (1) per thousand (1000) lineal feet of frontage along said road.

6. Political signs shall not exceed ten (10) square feet in size and shall be limited to two (2) per property.

B. Signs permitted in the CAL-B-1 District.

All signs permitted under 604.4 of this Law for the B-1 District.

C. Signs permitted in the CAL-R-1 District.

All signs permitted under Section 604.1 of this Law for the R-1 District.

613.7 Lots Fronting on the Delaware River

No lot bordering the Delaware River in any DR, CAL-B-1, or CAL-R-1 District shall be created with less than two-hundred (200) feet of frontage along the River.

..Item 5 - Add the following Section 614:

614 Development on Steep Slopes

All uses allowed by this Law shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized by steep slopes. The procedures and standards are as follows:

Steep slopes shall be defined as slopes in excess of fifteen (15) percent. Slope shall be determined by the Zoning Officer from United States Geological Survey topographic maps or U.S.D.A. Soil Conservation Service maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer shall require the applicant to provide certification from a Professional Engineer or Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed.

In reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Zoning Officer or Planning Board, as the case may be, shall determine that the following performance standards have been or will be met:

A. An accurate map prepared by a Professional Surveyor has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be

shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.

- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. Impervious surfaces are kept to a minimum.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Soils characterized by the Soil Conservation Service as highly susceptible to erosion shall be avoided.
- F. Roads and utilities shall, to the greatest extent possible, be installed along existing contours.
- G. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- H. Natural vegetation shall be preserved to as great a degree as possible.
- I. In cases where structures are proposed, the applicant shall submit plans to the Town detailing how the limitations of slope will be mitigated by the design of the structure(s). Said plans shall be prepared and certified by a Professional Engineer or Registered Architect.
- J. Prior to the issuance of a certificate-of-use, the applicant shall provide to the Zoning Officer a certification by a Professional Engineer or Registered Architect that the property has been developed and structures have been constructed in accord with the approved certified plans.

••Item 6 - Amend Section 605 to read as follows:

605 Performance Standards

The intent of this Section 605 is to regulate the development and operation of all development in the Town and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all proposed new or expanded special uses, commercial, manufacturing and other non-residential uses. (Note - This section shall not apply to agriculture.)

### 605.1 Yards and Buffers

Unless otherwise regulated by this Law, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any R-1 District the minimum size of the abutting yard shall be increased to fifty (50) feet and a buffer. Storage of equipment, supplies, products or any other materials shall not be permitted in any front yard or side yard.

Landscaped buffers may be required for special uses by the Planning Board in any yard in order to assure the protection of adjoining uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier by blocking physical passage to dangerous areas; and reduce air pollution, dust and litter; and, to otherwise maintain and protect the rural character of the District.

- A. In determining the type and extent of the buffer required, the Planning Board shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. The width of the required buffer, as determined by the Planning Board, shall not be less than ten (10) feet.
- C. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.
- D. Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained.
- E. In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Planning Board shall determine that the proposed use and adjoining use(s) are not incompatible.

### 605.2 Operations and Storage

All facilities and operations of the principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall otherwise be provided with larger setbacks and/or buffers to screen the storage area and afford protection to adjoining uses and any public road rights-of-way. Storage of materials, supplies or products in motor vehicles, truck

trailers or other containers normally used to transport materials shall not be permitted. However, trailers maintained in good condition, shall be permitted for such storage accessory to an approved commercial, industrial or manufacturing use. The placement of said trailers shall require a permit, shall meet the setback requirements of this Law and shall not be used for the storage of any flammable or hazardous material.

#### 605.3 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). All buildings shall comply with the most current code standards as required by the Town. Additional buffer areas or fencing may be required by the Planning Board for special uses if the nature of the proposed use as determined by the Planning Board so requires. Principal buildings on the same parcel shall be separated by a distance equal to the height of the highest adjoining building.

#### 605.4 Radioactivity or Electric Disturbance

No activities shall be permitted which exceed federal standards for radioactivity emissions, or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. All applicable Federal, State and local regulations shall apply.

#### 605.5 Noise

The outdoor day-night average sound level (DNL) in decibels at the property line shall not exceed sixty-five (65) decibels. The Zoning Officer in the investigation of a violation shall initially estimate DNL using the "Walk-Away Test" as described in the U.S. Department of Housing and Urban Development's 1979 Noise Assessment Guidelines. Should the test indicate a DNL exceeding sixty-five (65) decibels the Officer shall notify the owner and any aggrieved party of his findings and the potential violation. He shall also recommend appropriate abatement measures. Should a subsequent investigation still indicate a problem the Officer shall determine such average sound level by taking no less than three measurements with a decibel meter, all of which shall occur within seventy-two (72) hours but no less than fifteen (15) minutes apart.

The Planning Board may, in case of special uses, require additional setbacks, buffers and fencing, or limit the hours of operation to mitigate any potential noise impacts of any proposed use.

#### 605.6 Vibration

No vibration shall be permitted which is detectable without instruments at the property line.

#### 605.7 Lighting and Glare

No light source shall be exposed to the eye except those covered by globes or defusers. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source. Lighting design should be an inherent part of the architectural design. All streets, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site.

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the property line. This restriction shall not apply to signs otherwise permitted by the provisions of this Law.

#### 605.8 Smoke

No emission shall be permitted from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.

#### 605.9 Odors

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted.

#### 605.10 Other Forms of Air Pollution

No open or exterior burning of any raw material, component or other substance associated with any production process shall be permitted. No waste materials or by-products shall be burned or incinerated on any property except at a NY DEC approved solid waste disposal facility. In any case, no emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

605.11 Surface and Ground Water Protection

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies.

In the case of special uses, the Planning Board may require a plan to be submitted for review and approval and may require financial security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Planning Board.

In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one-thousand (1,000) feet of any portion of the property where the proposed use will be located.

605.12 Landscaping

A landscaping plan for any proposed special use, including the parking areas, walkways and areas adjacent to buildings, may be required from the developer for review and approval by the Planning Board. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation and maintenance program.

Landscaping shall be installed to the following minimum standards:

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- C. Plants shall be of a variety proven successful in the Town's climate, unless otherwise approved by the Planning Board.
- D. Where landscaping is required to serve as a buffer (eg. between the project and adjoining properties or between buildings and parking areas) the plants used shall be of such variety, size and arrangement of height and spacing to effect the required buffer

in a reasonable period of time as determined necessary by the Planning Board. The width of the landscaped buffer shall generally not be less than ten (10) feet in all required yards, unless the applicant can demonstrate to the Planning Board that the buffer can be effected by other means such as soil mounding and/or fencing. Buffers of greater width may also be required as a condition of approval to address specific requirements of particular uses.

- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- F. A minimum of five (5) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained with landscaping, including trees and shrubs in plots of at least thirty-six (36) square feet in area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. However, in no case shall more than fifteen (15) spaces be permitted in a continuous row without interruption by landscaping, and not more than sixty (60) spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Plastic landscape materials shall not be permitted with the exception of permeable weed control material.
- I. All trees to be planted shall have a trunk diameter of at least three-quarters (3/4) inch as measured one (1) feet above the ground.
- J. All landscaping shall be maintained in good growing condition by the property owner with plants that have died being replaced with similar plants.

#### 605.13 Stormwater Management and Soil Erosion Control

A stormwater management plan and soil erosion control plan shall be required for any use regulated by this Zoning Law. Said plan shall be prepared and implemented pursuant to the standards contained in the Town Subdivision Law and any other applicable Town, County or State requirements.

The protection of the quality of ground water and surface water shall be an integral part of all proposed stormwater management practices; and all stormwater management plans shall include an element specifically addressing water quality. The plan shall provide for

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the minimization of the discharge of "first flush" sediments off the project site or directly to infiltration structures. Containment of "first flush" sediments shall be accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.

#### 605.14 Waste Materials

No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, sewage or stormwater disposal system, stream, open body of water or onto the ground.

#### 605.15 Sewage Disposal

Sewage disposal shall be provided by a system meeting the requirements of the New York State Department of Health. Discharge to such system shall be limited to normal, domestic and human bodily wastes unless the treatment system has been specifically designed to handle other wastes or the wastes are pre-treated in accord with Department of Health or local sewer district requirements. No discharge of wastes, by-products or materials in any way associated with a production process, health care or veterinary facility medical wastes, funeral home wastes, or other commercial wastes shall be permitted to any subsurface, land application or other soil based sewage disposal system.

#### 605.16 Water Supply

All uses governed by this Zoning Law shall be provided with an adequate and safe water supply meeting all applicable town, county, water district and state regulations.

#### 605.17 Other Regulations

Certification shall be provided by the applicant demonstrating that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including but not limited to the Sullivan County, NY Department of Transportation, the NY Department of Environmental Conservation, the NY Department of Health, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

Item 7 - Add the following Section 615:

615 Bed and Breakfast Establishments

A bed and breakfast establishment, as classified by the Schedule of District Regulations, shall comply with the following standards in addition to all other applicable requirements of this Law.

- A. Adequate off-street parking is provided in accord with this Law, with the minimum number of parking spaces provided as follows: one (1) space for each rentable room; one (1) space for each non-resident employee, and two (2) spaces for the dwelling unit.
- B. Not more than five (5) rentable rooms are provided in the establishment.
- C. The owner or manager of the bed and breakfast must reside on the premises.

Item 8 - Amend Section 202 to read as follows:

202 Words and Phrases Defined

For the purpose of this Law, the following words, terms and phrases have the meaning herein indicated:

Accessory Use or Structure: A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Adult Care Facility: See "Health Facility."

Adult Business: A use of a building or land for a business which has obscene materials as a significant portion of its stock-in-trade or involves the sale, lease, trade, gift or display of drug paraphernalia. Obscene materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any specified anatomical areas and/or specified sexual activities. Drug paraphernalia includes any objects, devices, instruments, apparatus or contrivances, whose primary and traditionally exclusive use is involved with the illegal use of any and all controlled substances under New York State Law.

For the purposes of this Ordinance, "adult businesses" shall also include any nightclub, bar, restaurant, arcade, theater, or any other establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a

substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, or where any specified sexual activities are conducted for economic gain or any other form of consideration.

- A. Specified Anatomical Areas - As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or 2) human male genitals in a discernable turgid state, even if completely and opaquely covered.
- B. Specified Sexual Activities - As herein, specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.

Agriculture: The use of any parcel of land for economic gain in the raising of agricultural products, livestock, poultry and/or dairy products; or the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services but not including the operation of a sawmill or other wood manufacturing businesses. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes agricultural products processing operations; riding academies, livery or boarding stables and dog kennels; and the disposal or use of sludge, septage or similar waste products.

Agriculture Products Processing: An industry that involves the processing of raw agricultural products; and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as dairies and food canning and freezing operations.

Agricultural Service Establishment: Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services and farm labor and management services, and farm machinery dealers.

Alterations: As applied to a building or structure, means 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.

Amusement Arcade: A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

Amusement Park: A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities. (See Recreational Facility, Private)

Animal Hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals for extended periods is part of the care given at the facility.

Antique Auto: A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications and which is currently licensed by a State Department of Transportation.

Applicant: See "Person"

Bed and Breakfast Establishment: Any dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally included as a part of the services rendered.

Boarding or Lodging House: Any dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally but not necessarily included as a part of the services rendered.

Buffer: A part of a required setback area (yard) which is used to provide separation between incompatible uses to effect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

Building Coverage: The area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade within twenty feet of the building to the highest point of the roof.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Cage Type Poultry House: A structure for the housing of poultry in elevated meshwork pens in which all the processes relating to the raising of poultry are accomplished without the removal of the birds from such enclosures.

Campground or Recreational Vehicle (RV) Park: The division or re-division of a lot, tract or parcel of land, by any means, into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot line for the purpose, whether immediate or future, of lease, rent, sale or transfer of ownership, for the purpose of providing a site for travel trailers, truck campers, camper trailers, motor homes and tents, for temporary occupancy. Campgrounds, recreational vehicle parks, primitive camping facilities and other similar facilities shall fall under this definition.

Car Wash: Any building or premises or portions thereof used for washing automobiles for commercial purposes.

Child Care Center: Any establishment enrolling five (5) or more children five (5) years of age or younger and where tuition, fees, or other forms of compensation for the care of the children is charged.

Church: A building used for public worship. (See also Semi-public Buildings and Uses).

Clear Sight Triangle: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

Club/Lodge, Private: An establishment operated for social, athletic, recreational or educational purposes but open only to members and not open to the general public.

Cluster Development: A form of development for single-family residential development that permits a reduction in lot area and certain development standards provided unit densities permitted under a conventional subdivision are maintained and the resultant land area is devoted to common open space.

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.

Country Club: A recreational property owned and managed by membership organization and including recreational facilities, restaurant and meeting rooms.

**Deck:** An elevated (more than 6 inches) attached accessory structure constructed of wood with no walls or roof. As an attached accessory structure, it must meet the required setbacks for the principal building.

**Developer:** Any landowner, agent of such owner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

**Dwelling:** A building arranged, intended, designed, or used, as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

- A. Single-Family Detached - A building arranged, designed and intended to be used for and occupied exclusively by one family.
- B. Two-Family - A building arranged, designed and intended to be used for and occupied by two families living independently and having no cooking or bathroom facilities in common.
- C. Multiple - A building arranged, designed and intended to be used for and occupied by three (3) or more families living independently and having no cooking or bathroom facilities in common.

**Dwelling Unit:** Rooms in a dwelling structure, including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

**Essential Services:** Public utility, facilities that do not require enclosure in a building, including the construction or maintenance, of gas, electrical, steam, telephone, sewage treatment plants and collection systems, or water distribution systems; including equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment.

**Family:** Either an individual, or two (2) or more persons related by blood or marriage or adoption or up to six (6) unrelated persons living together as a household in a dwelling unit.

**Farm Stand:** A booth or stall on a farm and from which produce and farm products are sold to the general public and which is operated by the owner of the property.

Flea Market: An occasional or periodic sales activity held within a building, structure, or open area where stalls or sales areas are set aside, and rented or otherwise provided and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets shall not include any operation which involves the sale of any obscene or pornographic material or any activity included in the definition of "adult business" contained in this Law.

Forestry Enterprises: Establishments engaged in the operation of timber tracts, tree farms, forest nurseries, and the gathering of forest products, but excluding sawmills and other wood manufacturing businesses.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

Garage, Private Parking: A building or portion thereof used only for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Gasoline Service Station: A structure, building, or area of land or any portion thereof that is used for the sale of gasoline and oil or any other motor vehicle fuel and/or other lubricating substance, which may or may not include facilities for lubricating, washing, and sale of accessories, but not including the painting and/or body work thereof and other vehicle and equipment repair operations as defined by this Law. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station.

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf ball driving ranges.

Greenhouse, Commercial: A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale distribution; and including associated structures for office space and storage; but not including retail sales of any products or services.

Greenhouse, Private: A detached accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, used for private use.

Gross Floor Area: The sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.

Group Family Household: A group of not more than six (6) individuals including staff, not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Group Home: A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household. Any facility housing seven (7) or more individuals, including staff, shall be considered a health facility.

Health Facilities: Establishments primarily engaged in providing services for human health maintenance including hospital facilities, nursing homes and adult care facilities, personal care facilities and medical clinics and offices whether publicly or privately operated.

Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than a sign as provided herein; and may include professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses, excluding commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops and other uses not meeting the requirements of this Zoning Law.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities. (See also "Health Facility").

Hotel: A facility offering temporary (generally for periods of two (2) weeks or less) lodging accommodations to the general public, typically

on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

Institutional Use: A publicly operated or sponsored facility used to house and/or rehabilitate individuals detained or sentenced by the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories and similar facilities.

Intensive Livestock Operation: The fattening or raising of beef cattle, hogs, poultry or other animals for the purpose of obtaining meat, eggs, or wool for marketing. Any livestock operation which involves the keeping of more than one-hundred (100) beef cattle, or one-hundred (100) pigs, or one-hundred (100) sheep, or one-hundred (100) goats, or five-hundred (500) fur-bearing animals or five thousand (5,000) poultry shall be considered intensive. The keeping of dairy animals shall not be included in this definition or regulated by this Law.

Junk: Any scrap, waste, reclaimable material or debris, vehicles or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

Junkyard: An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials, including but not limited to, waste paper, rags, metal, building materials, house furnishings, machines, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The outside storage or deposit on a lot of two or more inoperable vehicles which do not have current licenses shall be considered a junk yard. Agricultural vehicles such as tractors, mowers, etc. which are utilized as part of an active on-going farming operation and contractors construction equipment actively used for part of the operation shall be exempt from this provision. Automobile sales lots managed by licensed automobile dealers and storage areas for antique autos shall be also exempt from this provision.

Kennel: Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Kennel, Private: Any building or buildings or land designed or arranged for the care of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale or barter of animals.

Landowner: The legal or beneficial owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of a landowner, or

other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Law.

Lot: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Law, having not less than the minimum area and width required by this Law, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot Area: The total number of square feet in the lot.

Lot Coverage: That portion or percentage of the lot area which is covered by buildings, roads, driveways, walkways, parking areas, or other impervious surfaces.

Lot Depth: The average of the depths of a lot at the two side lot lines.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

Lot Width: The average of the width of a lot at the building setback line required by this Law and the rear lot line.

Manufactured Home: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, which arrives at a site complete and ready for installation except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation; including, but not limited to mobile homes and modular homes.

Manufactured Home Sales: An establishment that sells manufactured homes.

Manufacturing and Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to, the assembly of component parts, the manufacturing or transformation of products for use by other manufactures, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, and any facility involving processes resulting in the storage of hazardous materials or the generation of

hazardous waste products, or other environmentally regulated processes.

Manufacturing, Light: Facilities involving generally unobtrusive processes not resulting in the storage of hazardous materials or the generation of hazardous waste products that require special permits or special handling, or other environmentally regulated processes. Uses producing products predominately from previously prepared materials, finished products and parts, including, but not limited to, research, engineering or testing laboratories, assembly from components, fabrication of products, textile and clothing manufacturing, warehousing, distribution centers, furniture or other wood products production and the like, but excluding basic industrial processing.

Medical Office: An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists and where patients are not usually lodged overnight. (See also Health Facilities).

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: Land occupied or to be occupied by a mobile home in a mobile home park, improved with the necessary utility connections and other appurtenances; and, said lot being specifically designated by division from other lots in the mobile home park.

Mobile Home Park: A parcel or contiguous parcels of land under single ownership which has been planned and improved for the placement of two (2) or more mobile homes for non-transient use.

Model Home: A residential structure associated with a principal permitted commercial use and not intended for permanent occupancy; and used solely for demonstration purposes to inform potential purchasers of the types of homes available from the seller.

Motel: A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, with at least twenty-five (25) percent of the rooms having direct access to the outside.

Multi-Family Project: Any development of single parcel of property that includes one or more buildings containing two (2) or more dwelling units; and that includes common open space and facilities.

Multiple Occupant Commercial Building: A building containing two (2) or more independent, non-residential uses, or two (2) or more

commercial buildings on one (1) lot; such uses also being permitted in the District where the multiple occupant building is proposed.

Natural Resource Use: The mining, removal or recovery by any means whatsoever (including, but not limited to open excavations and quarries, and subsurface mining) of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water, land, on or beneath the surface thereof; said substances including but not limited to coal, limestone, shale, dolomite, sandstone, sand, clay, gravel, rock, stone, earth, ore, peat, soil, or other mineral. Such uses with an open face of one (1) acre or less and used for non-commercial purposes shall not be considered "natural resource uses" under the terms of this Law.

Natural Resources Processing: The refinement of minerals to specifications for sale including, but not limited to, the crushing, screening, washing or grading of minerals; and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

Non-conforming Lot: Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Sullivan County Clerk prior to the effective date of this Zoning Law, or any amendments thereto.

Non-conforming Structure: A structure or part of a structure manifestly designed not to comply with the applicable use or extent of the use provisions in this Law, as amended, where such structure lawfully existed prior to the enactment of this Law or amendments hereto; including, but not limited to non-conforming signs.

Non-Conforming Use: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Law or amendments hereto, where such use was lawfully in existence prior to the enactment of this Law. Such non-conforming uses include, but are not limited to, non-conforming signs and other structures.

Nursery, Commercial: A commercial operation where trees and shrubs are grown for transplanting, for use as stocks for budding and grafting, or for sale.

Nursing Home: Any premises containing sleeping rooms used by persons who are lodged and furnished with meals and nursing care. (See also "Health Facility").

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Open Face: That area of a natural resource use where the extraction or removal of said natural resource is underway; and including any

area of the property which has not been fully reclaimed and rehabilitated following resource removal.

Open Space: All areas of a multi-family development or cluster development not conveyed to individual owners and not occupied by buildings and required or proposed improvements shall be dedicated as permanent open space for the benefit and enjoyment of the residents of the particular units being proposed. Such open space shall be part of the same parcel and contiguous.

Parking Area, Private: An open area for the same uses as a private garage.

Parking Area, Public: An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Patio: An open recreational area or structure, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

Permanent Foundation: A cement, concrete, treated wood or cinder block walled foundation erected on a poured concrete footer. A solid concrete slab will also be considered a permanent foundation.

Person: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit.

Planning Board or Board: The Planning Board of the Town of Delaware, Sullivan County, NY.

Porch: An attached roofed patio or deck. With the exception of the wall adjoining the principal structure, all walls must be open or screened with a wall no higher than four (4) feet above the floor level. A porch is considered an attached accessory structure and must meet those setback requirements for principal structures.

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession.

Public Buildings and Uses: Any structure, building or use owned and operated by a government body or agency including such things as public schools, parks, civic centers, municipal buildings; but excluding solid waste disposal facilities, institutional uses, nursing homes, hospitals and other use specifically defined by this Law.

Recreation Vehicle: A vehicular type of unit designed as temporary living quarters for recreational camping or travel use which has either its own motive power or is mounted on or drawn by another

vehicle. Included in this category are travel trailers of no more than 500 square feet in size, truck campers fitted to the chassis of a pick-up truck, self-propelled motor homes and collapsible wall camper trailers.

Recreational Facility, Intensive Use: Boat rentals, canoe or other watercraft liveries, tourist recreational facilities, recreational vehicle campgrounds, golf courses, public recreational facilities, clubhouses, and other recreational uses likely to require significant amounts of parking, restaurant facilities, rest room facilities and other accessory services; not including lands used as access points only, whether publicly or privately operated; and not including major commercial recreational development, nor town open space parks, playgrounds, or ballfields.

Recreational Facility, Private: Outdoor or indoor areas or structures, operated by private non-profit or private commercial entities, open to the public, which contain entertainment and amusement devices or attractions including picnic groves, animal farms, amusement parks, zoological parks, tennis and racquetball courts, ski areas, golf courses and the like, but excluding theaters, public parks and playgrounds and other recreational uses specifically listed on the Schedule of District Regulations.

Recreational Facility, Public: Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Town, County, school district, state, or federal government.

Recreational Facility, Tourist: A recreational facility designed to provide overnight accommodations in permanently constructed buildings in combination with a variety of generally active recreational opportunities such as golf, hiking, swimming, etc.. Also including restaurants and specialty shops which are primarily for guests of the facility; but not including campgrounds or RV parks.

Recreational Vehicle Park: See Campground and RV Parks.

Restaurant or Tavern: An establishment where food and drink is prepared, served and consumed primarily within the principal building.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, and which is not otherwise listed as a use in the Schedule of Uses.

Right-of-Way: Land reserved for use as a street, drainage facility or other public or community use.

Sawmill: An establishment for processing logs into finished or semi-finished lumber, but which does not include major wood products industries or lumberyards.

Self-storage Facility: A building or buildings containing separated spaces to be leased or rented to individuals and/or business for the storage of personal belongings, goods or supplies.

Semi-Public Building or Use: Buildings or uses operated by non-profit, community-based organizations for the general use of Town residents, including churches, fire houses, ambulance buildings, private schools, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services or public utilities that require enclosure within any structure or building.

Service Establishment: Establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, fitness centers, photographers, and similar uses, and which is not otherwise listed as a use in the Schedule of Uses.

Setback: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines.

Sewage Disposal, Central: A sanitary sewage collection and treatment system in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated. A system designed to serve a two-family dwelling or two dwelling units located on the same property or adjacent properties shall not be considered as central sewerage and in such a case all development standards will apply the same for each dwelling or unit as any single family unit.

Sewage Disposal, On-site: A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil.

Signs: Any object, device, display, structure, or part thereof, situated outdoors or indoors, and intended for viewing from the building exterior, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nations, state, city, religious, fraternal, or civic organization; also merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, or scoreboards located on athletic fields.

1. On-premises sign: Any permitted sign located on the land upon which the concern advertised by such sign is located.

2. Off-premises sign: Any permitted sign not located on the land upon which the concern advertised by such sign is located.
3. Sign surface area: The size of any sign computed by multiplying its greatest length by its greatest height. Structural members not bearing advertising material or not in the form of a symbol shall not be included in the computation of surface area. In the case of signs with no definable edges (eg. raised letters attached to a facade) surface area shall be that area within the perimeter of a rectangle enclosing the extreme limits of the advertising material. If one, two sided sign is proposed, each face shall not exceed the applicable maximum sign surface area. If one-sided signs are proposed, two signs may be erected and the face of each shall not exceed the applicable maximum sign surface area.
4. Non-conforming sign: Any sign legally existing prior to the effective date of this Law.
5. Billboard: A sign advertising a business, product, service, commodity, activity or other concern which is located, produced or offered at a location other than the premises on which the billboard is located; but, not including the off-premises signs permitted by this Law.

Solid Waste or Waste: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste. Including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, local facilities or any other by-product or effluent from an industrial, mining or water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the NY DEC as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

Solid Waste Facility, Commercial: Any facility or operation of a private individual or firm pursuant to the laws of the State of New York governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Facility, Public: Any facility or operation of a public entity pursuant to the laws of the State of New York governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills,

incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Staging Area: Any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used for the parking or storage of vehicles and/or containers used to transport solid waste; and which is not regulated by the NY DEC as a solid waste transfer facility.

Special Use: A use subject to Planning Board approval pursuant to Section 274(a) of the NY State Town Law and permitted in a particular zoning district only on showing that such use in a specified location will comply with all conditions and standards for the location or operation of such use as may be reasonably imposed according to the requirements of this Law.

Stable, Commercial: A structure or area used for the shelter, care and/or riding of donkeys, horses, or mules for hire, remuneration or sale.

Stable, Private: An accessory structure or use which involves the keeping of donkeys, horses, or mules not for hire, remuneration or sale.

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. "Public rights-of-way" shall be those open to the general use of the public, not necessarily publicly dedicated.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Structure, Permanent: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structure, Portable: Anything constructed that is not permanently affixed to the ground but is designed to be moved from place to place.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

Studio: A commercial establishment for the teaching of dancing, singing, painting, sculpting, photography, acting, or other art forms.

Subdivision: The division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the

purpose, whether immediate or future, of lease, transfer of ownership or building or lot development.

Temporary Office: A portable structure used for a period of one (1) year or less as an operational office for a construction site or in association with and approved commercial use.

Tourist Recreation and Lodging Facility: A recreational facility designed to provide overnight accommodations in permanently constructed dwelling units in combination with a variety of generally passive recreational opportunities such as golf, hiking, swimming, etc., not including campgrounds or RV parks.

Truck Wash: Any building or premises or portion thereof used for washing trucks with a gross vehicle weight exceeding five thousand (5,000) lbs.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Variance: permission granted by the Zoning Board of Appeals, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship.

Vehicle and Equipment Sales Operation: The use of any building, land area or other premise for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles; or farm or construction equipment including any warranty repair work and other repair service as an accessory use. No business or facility which generates less than fifty (50) percent of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described (excluding parts and repairs) shall be considered a vehicle and equipment sales operation.

Vehicle or Equipment Repair Operation: An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

Warehouse: Terminal facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field and used for the storage of goods and materials.

Water Supply, Central: A public or private utility system designed to supply and transmit drinking water from a common source to two or more dwelling units or uses in compliance with NY State Department of Health regulations.

Water Supply, On-site: A system for supplying and transmitting drinking water to a single dwelling or other use from a source located

on the same lot, and in compliance with NY State Department of Health regulations if such compliance is required.

Wholesale Business: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Veterinary Clinic: A place where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use and no outdoor kennels or pens are on the premises.

Yard: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

Zoning Officer: The administrative officer charged with the duty of enforcing the provision of this Law.

The above definitions are also supplemented by those contained in other Town Laws. Where there is any conflict between definitions or provisions contained in this Law and other Laws, the definitions or provisions contained herein shall apply insofar as they affect this Zoning Law.

.. Item 9 - Add the following Section 403:

403 Uses Not Specified in Schedule of District Regulations

Whenever a proposed use is neither specifically permitted nor denied by this Law, the Building Inspector shall consult with the Town Planning Board for their recommendation regarding the appropriate classification of said use, and then refer the application, along with the Planning Board's opinion, to the Zoning Board of Appeals which shall decide in which district(s) the use shall be permitted or denied based upon the intent of the districts and upon the similarity of the use to other uses listed in the Schedule of District Regulations. The Zoning Board of Appeals shall also, upon determining district location, classify the proposed use as either a principal permitted or special use and direct the Building Inspector to proceed accordingly.

.. Item 10 - Add the following Section 616

616 Commercial Uses in Existing Residential Structures

Many single family dwellings in the Town of Delaware were constructed prior to 1940 and are very large and architecturally distinct in comparison to later residential dwellings constructed in times of smaller families and increasing energy costs. These nineteenth and early twentieth century structures share common characteristics of scale, style, materials, setbacks and landscaping and are a vital element of the Town's historic character and add appeal to the

recreation and tourism economy so important to the Town. The intent of this Section 616 is to allow the adaptive use of older, existing residential structures in the R-1 and CAL-R-1 zoning districts to encourage the preservation of such structures which may, due to their size and associated maintenance and energy costs, fall into disrepair, deteriorate and diminish tax revenues or otherwise affect the welfare of the Town. It is further the intent of this section to allow such uses without compromising the residential use of adjoining buildings.

The provisions of this Section 616 shall apply in the R-1 District and the CAL-R-1 District. All uses shall also comply with all other applicable provisions of this Zoning Law.

#### 616.1 Special Use Classification

All uses proposed under this Section 616 shall be considered Special Uses and shall comply with the requirements of Article VIII of this Law.

#### 616.2 Uses Permitted

The following uses shall be permitted in accord with this Section 616:

- Art Galleries
- Bed and Breakfast Establishments
- Funeral Homes
- Insurance Offices
- Medical Offices
- Private Schools
- Professional Offices
- Real Estate Offices
- Restaurants (minimum lot size of 60,000 s.f. required)
- Studios

#### 616.3 Existing Structures

The uses provided in this Section 616 shall only be permitted in residential structures constructed prior to 1940. The applicant shall provide, to the satisfaction of the Planning Board, evidence documenting the time of construction of the structure.

#### 616.4 Neighborhood Character

In order to preserve the character of the residential districts, the structural appearance of the building shall not be altered and the building shall be maintained in such manner as to preserve its appearance, style and scale. Alterations to restore or otherwise change a building to its original appearance shall be permitted. The building owner shall attach to the deed of the property such covenants and restrictions as will assure continued maintenance of the building in accord with its existing appearance, style and scale, and the neighborhood character. Said covenants and restrictions

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shall be approved by the Planning Board. Said covenants and restrictions shall also apply to the construction of any additions to the building.

616.5 Parking

Adequate off-street parking shall be provided and in addition to the requirements of Section 603 of this Law, the following additional provisions shall apply:

- A. No parking area, access drive or interior drive shall be located less than fifteen (15) feet to any adjoining property line or to the edge of shoulder of any public road right-of-way.
- B. Parking area buffers and landscaping shall be required in accord with Section 605.1 and 605.12 of this Law.

616.6 Landscaping

A landscaping plan meeting the requirements of Section 605.12 of this Law shall be submitted by the Applicant for approval by the Planning Board.

.. Item 11 - Amend Section 801.2 - Procedure, Subsection B to read as follows:

B. Applications. Applications for special use/site plan approval shall be made by the Applicant in writing to the Planning Board Secretary. For applications involving the construction of buildings, structures or additions to buildings or structures, all information contained in the following checklist shall, in general, be provided by the Applicant. However, when the Planning Board determines that all such information is not required or when the special use application is for a change in use not involving construction of a building, structure or addition thereto, the Planning Board shall establish which information shall be submitted by the Applicant. In any case, the Planning Board shall have the right to require any or all information in the checklist or any other information deemed necessary by the Planning Board to determine compliance with this Zoning Law.

.. Item 12 - Amend Section 801.2 - Procedure, Subsection C - Planning Board Action on Site Plan, to read as follows:

C. Planning Board Action on Site Plan. The Planning Board may conduct a public hearing on any site plan submitted for review. Said hearing shall be conducted within forty-five (45) days of the date that the site plan application is made to the Planning Board, and the Planning Board shall give public notice thereof by the publication in the official Town newspaper of notice of such hearing at least five (5) days prior to the date of the hearing. The Planning Board shall render a decision within forty-five (45) days of said hearing; or within forty-five (45) days of when the

application is made to the Planning Board if no hearing is conducted. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the Applicant.

.. Item 13 - In order to coincide with the revised zoning map which eliminates the AG - Agricultural District, delete from the Zoning Law all references to the AG - Agricultural District, including but not limited to the following sections: 301, 303.3, 401, 604.2, and 610.

.. Item 14 - Amend the Town of Delaware Zoning Map as shown on the Official Zoning Map of the Town of Delaware, dated April 21, 1993, and adopted herewith; and amend Section 302 - Zoning Map to read as follows:

### 302 Zoning Map

The Zoning Districts established by Section 301 of this Law (with the exception of any new PUD Districts proposed by any property owner, and the FP District which is an overlay zone shown separately on the most current maps prepared by the Federal Emergency Management Agency) are shown on the "Official Zoning Map of the Town of Delaware," which, along with all explanatory matter thereon, is hereby made a part of this Zoning Law. District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the Sullivan County Clerk's Office and on the Sullivan County Tax Maps at the time of the enactment of this Ordinance, unless such district boundary lines are fixed by dimensions or other points of reference as shown on the Official Zoning Map. In the case of the Zoning District boundaries which follow the Delaware River, all areas of the Delaware River within the boundary of the Town shall be included in the applicable Zoning District as shown on the "Official Zoning Map."

.. Item 15 - Amend Section 1104 to read as follows:

### 1104 Variance Requirements

Any property owner, tenant or representative thereof may, in appealing an administrative decision of the Town of Delaware with respect to this Law, request a variance from its literal terms. Application for a variance may be made concurrently with application for a building permit and shall be delivered to the Building Inspector who shall then, in acting upon the permit application, refer the matter to the Zoning Board of Appeals for a decision on the variance request. This shall not, however, preclude an applicant whose permit request has been denied from subsequently requesting a variance in conjunction with an appeal of such action if the appeal has been timely filed.

Two types of variances may be granted by the Zoning Board of Appeals - area variances and use variances. Area variances involve relief from dimensional or other requirements for existing uses or uses

allowed within the District under the terms of this Law. Use variances involve a use of land not allowed in a District under the terms of this Law. Each of the following findings of fact shall be made by the Board of Appeals prior to granting such variances.

1104.1 Area Variance

"Area Variance" shall mean the authorization by the Zoning Board of Appeals (ZBA) for the use of land in a manner which is not allowed by the dimensional or topographical requirements of this Zoning Law.

The ZBA, on appeal from an administrative decision or determination of the Town of Delaware with respect to this Zoning Law, shall have the power to grant area variances from the area or dimensional requirements of this Zoning Law. In making its determination to grant area variances, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the ZBA shall also consider:

- A. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- B. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- C. Whether the requested area variance is substantial.
- D. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- E. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

1104.2 Use Variance

"Use Variance" shall mean the authorization by the ZBA for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by the applicable regulations of this Zoning Law.

The ZBA, on appeal from an administrative decision or determination of the Town of Delaware with respect to this Zoning Law, shall have the power to grant use variances, authorizing a use of the land which

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otherwise would not be allowed or would be prohibited by the terms of the this Law. No such use variance shall be granted by the ZBA without a showing by the applicant that the applicable regulations and restrictions of this Law have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the ZBA that:

- A. Under the applicable regulations of this Law, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence.
- B. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
- C. The requested use valiance, if granted, will not alter the essential character of the neighborhood.
- D. The alleged hardship has not been self-created.

The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

1104.3 Imposition of Conditions

The ZBA shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

IT IS HEREBY ENACTED, on This 21 Day of April, 1993, By The Town Board of the Town of Delaware, Sullivan County, New York, to be effective immediately.

ATTEST

Debra Bauera-Jeind

Floyd E. Hella

William Deitl  
Michael B. Benke  
Carl E. Frankeger  
Gerald A. Doetsh

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. <sup>1 man</sup> of 19<sup>93</sup> of the ~~County~~ <sup>City</sup> of Delaware was duly passed by the ~~Town~~ <sup>Town Board</sup> (Name of Legislative Body) on April 21 19<sup>93</sup> in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,\* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the County ~~City~~ <sup>Town</sup> of was duly passed by the (Name of Legislative Body) ~~Village~~ not disapproved and was approved by the Elective Chief Executive Officer\* on 19 and was approved repassed after disapproval and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the County ~~City~~ <sup>Town</sup> of was duly passed by the (Name of Legislative Body) ~~Village~~ not disapproved and was approved by the Elective Chief Executive Officer\* on 19 and was approved repassed after disapproval on 19. Such local law was submitted to the people by reason of a mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting permissive general thereon at the special election held on 19, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the County ~~City~~ <sup>Town</sup> of was duly passed by the (Name of Legislative Body) ~~Village~~ not disapproved and was approved by the Elective Chief Executive Officer\* on 19 and was approved repassed after disapproval on 19. Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on 19, in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on ..... general ..... 19 ..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. .... of 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ..... above.

*[Handwritten Signature]*  
Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: April 21, 1993

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF SULLIVAN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*[Handwritten Signature: Michael S. McGrady]*  
Signature  
Michael S. McGrady  
Attorney for the Town  
Title

Date: 4/21/93

zCounty  
zCity of Delaware  
Town  
zVillage