

Chapter 136

Zoning

[HISTORY: Adopted by the Board of Trustees of the Village of Sylvan Beach 2-16-2009 by L.L. No. 2-2009.

GENERAL REFERENCES

Brush, grass and weeds — See Ch. **23**.

Fire prevention and building construction administration — See Ch. **48**.

Flood damage prevention — See Ch. **51**.

Junkyards — See Ch. **66**.

Mobile homes and recreational vehicles — See Ch. **75**.

Property maintenance — See Ch. **94**.

Sewers — See Ch. **103**.

Signs — See Ch. **105**.

Streets and sidewalks — See Ch. **111**.

Abandoned vehicles — See Ch. **120**.

Water — See Ch. **130**.

Article I

Introductory Provisions

§ 136-1 **Title.**

This chapter shall be known and cited as the "Sylvan Beach Village Zoning Code."

§ 136-2 **Statutory authority; supersession of state law.**

Enactment of this chapter by the Village is pursuant to Article 7, § 7-700, of the Village Law of the State of New York, and Article 27 of the Executive Law of the State of New York and pursuant to Municipal Home Rule Law and the Constitution of State of New York, and the Village Board hereby declares its legislative intent to supersede any provision of any local law, rule, regulation or provision of the Village Law inconsistent with this chapter. The Village Law provisions intended to be superseded include those portions of Article 7, §§ 7-725-a and 7-725-b, as they relate to the recovery of expenses incurred when the Village employs professional assistance during the site plan and special use permit review processes and any other provision of law that the Village may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are hereby directed to take notice of this legislative intent and apply it in the event the Village has failed to specify any provision of law that may require supersession. The Village Board hereby declares that it would have enacted this chapter and superseded such inconsistent provision had the need to do so been apparent.

§ 136-3 **Purpose and intent.**

The regulations of this chapter shall be made in accordance with the Village Comprehensive Plan and are enacted pursuant to the Village Law of the State of New York, Chapter 64 of the Consolidated Laws, Article 7, to protect and promote public health, safety, morals, comfort, convenience, economy, aesthetics and the

general welfare. Further, it is the purpose of this chapter to preserve the local history, culture and green space; to encourage the most appropriate use of land in the Village in order to conserve and enhance the value of property; to provide adequate and suitably located commercial facilities; to protect waterways; to assure privacy for residences and freedom from nuisances and things harmful to the senses; to protect the Village and its inhabitants against unsightly, obtrusive and noisome land uses and operations; and for the other purposes herein specified. Further, it is the purpose of this chapter to maintain the traditional neighborhood pattern of development in the Village of Sylvan Beach, particularly in those portions of the Village where there is likely to be the most new development and redevelopment. An inviting and attractive street environment that encourages informal pedestrian interaction characterizes this form of development. The economic and social vitality of the Village of Sylvan Beach depends upon maintaining the historic street environment, the economic viability of its businesses, and a hospitable atmosphere for residential occupants.

§ 136-4 Applicability.

A. Conformance requirement.

- (1) No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, constructed, reconstructed, moved or altered unless in conformity with all of the regulations for the district in which it is located.
- (2) No part of a yard, open space, parking space or loading space required for any structure and/or lot under this chapter shall be included as part of a yard, open space, parking space or loading space similarly required for another structure and/or lot.
- (3) No yard, lot or parking space now existing shall be reduced in size below the minimum requirements of this chapter. Yards, lots or parking spaces created after the effective date of this chapter shall meet its minimum requirements.

B. Uniform application within each district. The regulations established by this chapter shall be minimum regulations and shall be applied uniformly within each district.

§ 136-5 Effect on rights under prior laws and pending actions and proceedings.

The adoption of this chapter shall not affect or impair any permit granted, act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred, prior to the time this chapter takes effect, under any prior Zoning Code of the Village of Sylvan Beach, but the same may be enjoyed, ascertained, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been adopted, and all actions and proceedings commenced under or by virtue of such prior code and pending at the time this chapter takes effect may be prosecuted and defended to final effect in the same manner as they might have been if this chapter had not been adopted.

§ 136-6 Repeal of prior provisions.

§ 136-7 Relationship to other standards.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or codes, the most restrictive thereof, or those imposing the highest standards, shall govern.

§ 136-8 Amendments.

The Village Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this chapter in accordance with the applicable provisions of law.

§ 136-9 Severability.

- A. If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure.

§ 136-10 Effective date.

This chapter shall become effective within 30 days of being filed within the New York State Department of State's Office.

§ 136-11 (Reserved)

**Article II
Zoning Districts and Map**

§ 136-12 Establishment of districts.

In order to carry out the purposes and provisions of this chapter, the Village of Sylvan Beach is hereby divided into the base districts established below.

- A. **R1 – Single-Family Residential.** The Single-Family Residential District is intended primarily for single-family residential development in the form of detached dwellings. The purpose is to create a safe haven for people to live and conduct their domestic activities. A degree of privacy is expected, especially in the house and the rear yards.

R2 - Single-Family Residential with transient owner and non-owner occupied and is intended primarily for single-family residential development in the form of detached dwellings. The purpose is to create a safe haven for people to live, vacation and conduct their domestic activities. A degree of privacy is expected, especially in the house and the rear yards.
- B. **VC – Village Center.** The Village Center District is the cultural and commercial hub of the community and is intended to provide for a diverse and vibrant mixture of resort-oriented commercial and residential development. This district is intended to maximize the economic development potential with infill, reuse and expansion, and by protecting and enhancing a mixture of uses. Residential uses are intended on upper floors. Active uses are intended at street level in order to provide an interesting streetscape for pedestrians. Buildings should face the sidewalks and maintain a sense of scale so that they provide visual interest and create safe, inviting and enjoyable pedestrian spaces. Parking is intended to be available behind, within, or to the side of structures.
- C. **CR – Commercial Resort.** The Commercial Resort District is intended to preserve an area within the Village for a full range of commercial businesses that support the local economy. The district is intended to maximize the economic development potential by encouraging infill, reuse and expansion of resort-related businesses. Development is intended to promote an attractive appearance and to be compatible with adjacent residential and commercial uses.

- D. PL – The Public Lands District preserves and enhances the Village's public lands and recreational areas by protecting natural amenities and ensuring governmental or civic facilities are properly located, site designed, and compatible with adjacent development. Public Lands Districts are intended to apply to all publicly owned parks, recreational areas, natural wildlife areas, and waterfront.

§ 136-13 **Zoning Map.**

- A. Map incorporated. The boundaries of the zoning districts hereby established are shown on a map entitled "Village of Sylvan Beach Zoning Map." The Zoning Map and all notations, references and other information shown thereon shall have the same force and effect as if fully set forth or described herein, and such map is hereby made part of this chapter. The Zoning Map shall be properly attested and kept on file in the Village Hall.
- B. Omitted land. It is the intent of this chapter that the entire area of the Village, including all land and water areas, rivers, streets, alleys, railroads, and other rights-of-way, be included in the districts established by this chapter. Any area not shown on the Zoning Map as being included in such a district shall be deemed to be, and it is hereby, classified in the nearest zoning district designation or designations if there are more than one district in the unclassified area.

§ 136-14 **Interpretation of zoning district boundaries.**

- A. In making a determination where uncertainty exists as to the boundaries of any of the zoning districts shown on the Zoning Map, the following rules shall apply:
- (1) Where district boundaries are indicated as approximately following the center line or right-of-way line of streets, alleys, highways or railroads, such lines shall be construed to be district boundaries.
 - (2) Where district boundaries are indicated as approximately following a stream, lake or other body of water, such stream, lake or body of water shall be construed to be such district boundaries unless otherwise noted.
 - (3) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
 - (4) Where district boundaries are not indicated as approximately following the items listed above, the boundary line shall be determined by use of the scale designated on the Village Zoning Map.
 - (5) Whenever any street, alley or other public way is vacated in the manner authorized by law, the district adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-of-way, and all of the area included in the vacated area shall then and henceforth be subject to all regulations of the extended districts.
 - (6) Where a zoning district boundary intersects a building or structure or alteration to said building or structure which exists as of the effective date of this chapter, the zoning district which is in effect for the greater portion of the structure or building shall apply to the entire building, structure or alteration.
- B. In the event that none of the above rules is applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Village Zoning Board of Appeals.

§ 136-15 (Reserved)

**Article III
District Regulations**

§ 136-16 **Use regulations.**

- A. Permitted uses. All uses listed in the use table below shall be permitted in each zoning district for which the use is listed as a permissible use, provided that all other requirements of this chapter are met. Multiple principal uses shall be permitted on a single lot, provided the dimensional requirements of this chapter are met for each use.
- B. Prohibited uses. Any use not listed in the following table is deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere by this chapter. Any use which is not permitted in a given zoning district, or which is not an accessory use to such a permitted use, shall be deemed prohibited in that zoning district unless a use variance has been granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.
- C. Permitted accessory uses. An accessory use shall be permitted if the use to which it is accessory is a lawful use pursuant to the provisions of this chapter and for which a permit has been issued, so long as said accessory use or structure does not result in or exacerbate any violation of the provisions of this chapter. All uses permitted for each district shall be permitted as accessory uses, provided the combination of uses shall meet all of the other provisions of this chapter.

§ 136-17 **Use table.**

KEY:

X = Indicates that the use is permitted and requires site plan review.

SP = Indicates that the use requires a special permit.

Use	Zone				
	R-1	R-2	VC	CR	PL
	Residential	Residential	Village Center¹	Commercial Resort	Public Land
Accessory antenna	X	X	X	X	X
Amusement park			X	X	X
Bank			X	X	
Bed-and-breakfast			X	X	
Boat launch			SP	X	X
Campground	SP	SP	SP		
Clubs/Membership			X		
Day-care center			SP		
Day-care, family	SP	SP	SP		
Docking facilities, temporary and permanent	X	X	X	X	X
Drive-through use			SP ²	SP ²	

Dwelling unit			X ³		
Dwelling, apartment house			X ³		
Dwelling, multifamily			X ³		
Dwelling, single-family	X	X	X ³		
Dwelling, single family rental		X			
Dwelling, timeshare			SP ³	X ³	
Dwelling, two-family			X ³		
Dwelling, townhouse			X ³		
Dwelling, upper floor residential	X	X	X		
Essential service	X	X	X	X	X
Funeral home			X		
Health club			X	X	
Hotel/Motel			X	X	
Inn			X	X	
Home occupation	X	X	X		
Laundromat			X	SP	
Library			X	X	X
Marina	SP	SP	SP	X	X
Mobile home park	SP	SP			
Museum			X	X	X
Place of worship	SP	SP	X	X	
Professional office			X	X	
Public building			X	X	X
Recreation facility			SP	X	X
Restaurant, fast-food			SP	X	
Restaurant, full-service			X	X	
Retail, general			X	X	
School			X		
Swimming pool, private	X	X	X	X	
Tavern/Nightclub			X	X	
Theater			X	X	
Owner Occupied Transient Lodging	SP With minimum 5 day rental	SP			
Non Owner Occupied Transient Lodging	SP With minimum 5 day rental	SP			
Water-based activities			X	X	

Notes:

¹ Any development in a VC District that is adjoining an existing residential use at the time of application shall be subject to site plan review.

² Drive-through uses in the VC District shall be permitted only south of Lakehurst Avenue and west of Clifford Avenue.

³ Residential uses in the CR District and VC District (Main Street from Lakehurst Avenue to Spencer Avenue) are prohibited from locating on the street level.

§ 136-18 (Reserved)

Article IV Dimensional Regulations

§ 136-19 Dimensional table.

District	Minimum Lot Size	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Minimum Lot Width	Maximum Lot Coverage	Minimum Shoreline Setback	Maximum Building Height
	(square feet)	(feet)	(feet)	(feet)	(feet)			
DIMENSIONAL TABLE								
R1 & R2 Residential	5,000	Average front yard depth of principal buildings on block or 20 feet	15 combined; 5 each	25	50	50%	Average of principal buildings on block	35 feet/2 stories
VC Village Center	5,000	Average front yard depth of principal buildings on block or 20 feet	0; or 10 if adjacent to single-family use	15	50	85%; 70% if adjacent to single-family use; 50% for single-family homes	Average of principal buildings on block	40 feet/3 stories
CR Commercial Resort	5,000	Average front yard depth of principal buildings on block or 20 feet	0	15	50	85%; 70% if adjacent to single-family use	Average of principal buildings on block	40 feet/3 stories
PL Public Lands	N/A	Average front yard depth of principal buildings on block or 20 feet	0; or 15 if adjacent to single-family use	20	50	50%	Average of principal buildings on block	35 feet/2 stories

§ 136-20 **Dimensional requirements.**

- A. Minimum single-family setbacks. In addition to meeting the dimensional requirements set out above, all single-family dwellings must satisfy the minimum setback requirements with respect to all other accessory or principal uses on the same lot as if each single-family dwelling was located on a separate lot.

- B. Yards.
 - (1) Yards for corner lots. Each side of a corner lot which abuts a street shall be deemed a front yard. The owner shall indicate, when applying for a building permit, which of the remaining yards shall be the required side yard and which yard shall be the required rear yard.
 - (2) Yards for double-frontage lots. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which the lot is located.
 - (3) The front yard of a waterfront property shall be considered the yard along the shoreline and setbacks shall be measured from the established high water mark as determined by the Code Enforcement Officer. Setbacks for waterfront properties located along the Oneida Lake shoreline shall be measured from the common seawall as determined by the Village Board.
 - (4) The rear yard of waterfront property shall be considered the yard along the street or other roadway.

- C. Minimum floor area.
 - (1) The minimum floor area per dwelling unit shall be as follows:
 - (a) Single-family dwelling: 800 square feet.
 - (b) Two-family dwelling, each unit: 750 square feet.
 - (c) Multiple residences, each unit: 600 square feet.
 - (d) Hotels or motels, each unit: 200 square feet.
 - (2) The minimum floor area for each retail business established subsequent to the effective date of this section shall be subject to site plan review.

- D. Exceptions to minimum lot area requirements.
 - (1) Any nonconforming lot of record as of the date of this chapter which does not meet the minimum lot area and/or minimum lot width requirements of this chapter for the zoning district in which such lot is situated shall be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:
 - (a) Such lot does not adjoin any other lot in the same ownership; and

- (b) If there are adjoining lots in the same ownership, they shall be treated together as one lot to the extent necessary to comply with the area requirements of the applicable zoning district.
- E. Maximum lot coverage. Limits on maximum lot coverage shall not apply to swimming pools or tennis courts.

§ 136-21 (**Reserved**)

Article V
(Reserved)

§ 136-22 through § 136-26. (**Reserved**)

Article VI
Additional Use Regulations

§ 136-27 **Purpose; public hearing.**

- A. The purpose of this article is to provide criteria for specified uses due to the likely impacts to surrounding properties. These criteria are applied to mitigate impacts including noise, parking, traffic, unsightliness, odors, dust, vibrations, light and fumes. The regulations are intended to promote the public health, safety and compatibility with the immediate neighborhood and the larger community.
- B. The Planning Board shall hold a public hearing on a structure or use listed in this article if required by § 136-79.

§ 136-28 **Accessory uses and structures.**

Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district. No accessory use or structure shall be established or constructed until the primary use or structure is constructed and unless a building permit evidencing the compliance of such use or structure shall have first been issued in accordance with this section. Accessory uses and structures deemed to be similar in nature and appropriate by the Code Enforcement Officer may also be allowed in the Village of Sylvan Beach.

A. For residential uses, the following accessory uses and structures are permitted:

- (1) All detached accessory structures and uses, except for the driveway, accessory to a residential use, shall be located in the rear yard and shall include:
 - (a) Child's playhouse. (These structures shall only be permitted in the front yard of a waterfront property.)
 - (b) Decks, patios and terraces. (These structures shall only be permitted in the front yard of a waterfront property.)
 - (c) Detached residential garages.
 - (d) Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 - (e) Fire escapes, but only when located on that portion of the dwelling bordering on the side or rear yard.
 - (f) Outdoor parking or storage of no more than one boat and boat trailer, camping trailer, ATV, camping vehicle or the like, provided that such boat, trailer or vehicle shall not be used for living, sleeping or

housekeeping purposes.

- (g) Private swimming pools and bathhouses, limited to use by the occupants and their guests.
 - (h) Solar energy systems. (reference 136-22)
 - (i) Storage structures.
 - (j) Tennis courts, limited to use by the occupants thereof and their guests.
 - (k) Wind energy conversion systems. (reference 136-22)
 - (2) Attached residential garages.
 - (3) Building management offices when limited to the management of the building in which such office is located or a complex of buildings forming an integrated development of which such building is a part.
 - (4) Vehicle repair of noncommercial vehicles on residential premises when performed:
 - (a) By a resident of the premises;
 - (b) On a legal, off-street parking space;
 - (c) On a vehicle owned, licensed and operated for personal use by a resident of the premises; and
 - (d) Between the hours of 7:00 a.m. and 10:00 p.m.
 - (5) Dish antennas one meter or less in diameter to be located on the ground.
 - (6) Fences, walls and hedges subject to the provisions of § **136-47**, Fences and walls.
 - (7) Handicapped ramps in the side or rear yard, provided the ramp does not obstruct access to required parking.
 - (8) Home occupations, subject to § **136-34**.
- B. For nonresidential uses, the following accessory uses and structures are permitted:
- (1) Vending machines (in the VC and CR Districts only), but not within the required setbacks; and, if located within 150 feet of the residential district, the machine shall be screened from the residential district.
 - (2) Decks, patios and terraces when associated with a legal outdoor seating/assembly area.
 - (3) Outdoor entertainment, dining and bars.
 - (4) Detached garages, but only in the rear yard.
 - (5) Dish antennas one meter or less in diameter in the VC and CR Districts.
 - (6) Fences, walls and hedges subject to the provisions of § **136-47**, Fences and walls.

- (7) Fire escapes, but only when attached to that portion of the dwelling bordering on the side or rear yard.
- (8) Freestanding radio antennas located in the rear yard.
- (9) Parking lots and parking areas.
- (10) Solar energy systems. (reference 136-22)
- (11) One storage structure, incidental to a permitted use located in the rear yard only in the VC and CR Districts.
- (12) Temporary outdoor display of retail merchandise only in the VC and CR Districts.
- (13) Walk-up service windows facing any public right-of-way when accessory to a permitted commercial use when associated with a legal retail operation.
- (14) Wind energy conversion systems, subject to site plan approval. (reference 136-22)

C. For public land uses, the following accessory uses and structures are permitted:

- (1) Fences, walls and hedges, subject to the provisions of § **136-47**, Fences and walls.

D. Accessory structures. Accessory structures may be erected in accordance with the following restrictions:

- (1) No more than two accessory structures shall be allowed on any single lot with a primary residential structure.
- (2) No accessory structure shall be located closer than 10 feet to a principal structure.
- (3) Maximum accessory structure footprints shall be limited to:
 - (a) Garages: 800 square feet.
 - (b) Private greenhouses: 800 square feet.
 - (c) Storage sheds (including wood storage facilities): 144 square feet. The width of a storage shed shall measure at least 1/3 its length.
 - (d) Commercial accessory structures: 600 square feet.
- (4) Up to two additional (three in total) commercial structures containing the same use may be considered a single primary structure.
- (5) All accessory structures shall comply with the dimensional requirements (except height dimensions) for the zone in which they are located. The maximum height of accessory structures in all districts is **16** feet.
- (6) Pitched roofs shall have slopes no less than 5:12
- (7) Exempt accessory structures. [**Amended 3-18-2013 by L.L. No. 1-2013**]

- (a) For the purpose of this Code, upon the issuance of a short-term permit, fully enclosed tractor-trailer type trailers, fully enclosed commercial-type shipping containers, fully enclosed PODS®, and similarly styled fully enclosed storage containers will be considered as exempt accessory structures.
- (b) An application for a renewable short-term permit for an exempt accessory structure can be obtained from the Village Clerk and will be available for issuance upon affirmation that the placement of such container(s) will not be in violation of the setback requirements of the zone within which such container(s) will be utilized.
- (c) Applicants will be entitled (and limited) to six renewable thirty-day short-term permits, for each exempt accessory structure, per calendar year, as follows:
 - [1] A permit for each exempt accessory structure will be required for the first thirty-day period, at no charge to the applicant.
 - [2] A separate permit for each exempt accessory structure will be required for the second thirty-day period (whether contiguous, or otherwise); the fee for said second thirty-day period will be \$50 per permit for each exempt accessory structure.
 - [3] A separate permit for each exempt accessory structure will be required for the third thirty-day period (whether contiguous, or otherwise); the fee for said third thirty-day period will be \$50 per permit for each exempt accessory structure.
 - [4] A separate permit for each exempt accessory structure will be required for the fourth thirty-day period (whether contiguous, or otherwise); the fee for said fourth thirty-day period will be \$50 per permit for each exempt accessory structure.
 - [5] A separate permit for each exempt accessory structure will be required for the fifth thirty-day period (whether contiguous, or otherwise); the fee for said fifth thirty-day period will be \$50 per permit for each exempt accessory structure.
 - [6] A separate permit for each exempt accessory structure will be required for the sixth and final thirty-day period (whether contiguous, or otherwise); the fee for said sixth and final thirty-day period will be \$50 per permit for each exempt accessory structure.
- (d) It shall be a violation of this Code for any person, entity, or corporation to place or store an exempt accessory structure upon any parcel in the Village without a valid short-term permit in effect for each such structure.

§ 136-29 Antennas, satellite dishes and communication equipment.

An antenna is an accessory use and shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:

- A. No antennas, satellite dishes or other communications equipment shall exceed the height limits in the zoning district where they may be located.
- B. Roof-mounted antennas which do not exceed six feet in height above the roofline shall be permitted.
- C. All antennas shall be securely mounted to a structure.

§ 136-30 **Bed-and-breakfast establishments.**

All Bed -and-breakfast uses shall annually obtain a license to operate a Bed-and-breakfast establishment under the same terms and conditions as set forth in subsections 136-31 of this chapter, and all Bed-and-breakfast uses shall be subject to compliance with all the special use and licensing conditions and requirements applicable to transient occupancy lodging uses as set forth in said section 136-31, except to the extent such conditions or requirements may conflict with the provisions of this section, in which case the provisions of this section shall apply.

Bed-and-breakfast establishments shall be subject to the following requirements:

- A. The owner shall live on the premises of the bed-and-breakfast establishment.
- B. No alteration to either the exterior or the interior of any principal or accessory structure shall be made which changes the character or appearance of the residential premises.
- C. One attached or detached sign of not more than two square feet in area shall be permitted.
- D. The maximum number of overnight guests shall not exceed two per bedroom. In no case shall more than a total of eight guests be permitted in each bed-and-breakfast establishment.
- E. Breakfast only shall be served and only to overnight guests.
- F. No events, meetings or other activities for people who are not overnight guests shall be permitted.
- G. Parking on Premise – maximum 1 car per 2 guests.

§ 136-31 **(Reserved)**

§ 136-32 **Day-care centers.**

Day-care centers shall be subject to the following requirements:

- A. No permanently installed play equipment shall be located in the required front yards.
- B. All residential day care must follow NYS Rules & Regulations.

§ 136-33 **Drive-through uses.**

Drive-through uses shall be subject to the following requirements:

- A. Drive-throughs shall be prohibited in the front yard and shall be located to preserve continuous vehicular and pedestrian access from the public right-of-way to the principal building entry.
- B. When adjacent to residential uses, drive-throughs, including both the facility and queuing lanes, shall be a minimum of 100 feet from the property line of adjacent residential properties and screened by a solid fence or masonry wall of at least six feet in height.
- C. The stacking spaces shall be located so as not to interfere with the use of parking spaces or the free flow of traffic on the site and shall be adequately striped and marked with directional signs.
- D. Any outside speakers shall be adequately screened and/or metered so as not to increase the sound level at the property lines.

§ 136-34 **Home occupations.**

Home occupations shall be subject to the following requirements:

- A. No more than 25% of the gross floor area of the dwelling unit shall be devoted to the home occupation. This requirement shall not apply to family day-care homes.
- B. No stock-in-trade shall be displayed or sold on the premises.
- C. There shall be no outdoor storage of commercial vehicles, equipment or materials used in the home occupation.
- D. Commercial vehicles shall not be permitted in connection with any home occupation.
- E. No mechanical, electrical or other equipment, which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure, shall be used.
- F. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.
- G. No signage shall be allowed in the Residential District R1 or R2. In all other districts, one unlighted sign not over one square foot in area attached flat against the dwelling and displaying only the occupant's name and occupation shall be permitted to advertise the presence or conduct of the home occupation.
- H. Instruction for no more than five attendees shall be allowed.
- I. Any building or lot where more than two domesticated animals are housed, groomed, bred, boarded or trained shall not be considered a home occupation.
- J. No person shall be employed other than residents of the dwelling.
- K. A home occupation shall not be conducted in any accessory structure. With the exception of an attached garage or workshop.
- L. No sales or services shall be conducted requiring members of the public to come to the dwelling.
- M. Not more than one vehicle used in commerce shall be permitted in connection with any home occupation. Vehicle parking is further subject to the provisions of § **136-49**.
- N. The conduct of any home occupation, including but not limited to the storage of goods or equipment, shall not reduce or render unusable the garage provided for parking for the dwelling unit.

§ 136-35 Mixed-use developments.

Mixed-use developments shall be subject to the following requirements:

- A. Portions of buildings designated for commercial purposes shall not be used for dwelling purposes.
- B. Portions of buildings designated for dwelling purposes shall not be used for commercial purposes.
- C. This provision shall not be deemed to prohibit the use of a portion of the building or structure as living quarters for caretakers or attendants of a place of worship or institutions where such uses are authorized in any zoning district.
- D. Any changes subject to Planning Board Approval.

§ 136-36 **Mobile homes.**

Mobile homes shall be subject to the following requirements:

- A. Mobile home parks shall comply with the requirements of Chapter **75** of the Village Code.
- B. Mobile homes shall only be allowed in mobile home parks.

§ 136-37 **Public utilities.**

Public utilities shall be subject to the following requirements:

- A. Any structure shall be set back not less than 25 feet from all property lines or the minimum setback requirements of the applicable zoning district, whichever is greater.
- B. No parking or storage areas/facilities shall be located in the front setback.
- C. The uses shall be enclosed by a screen of vegetation and/or fence or wall.
- D. The storage of vehicles and equipment on the premises shall be prohibited.
- E. All buildings and structures shall either have exteriors which give the appearance of a structure permitted in the district where located or shall be screened from view from any private property located in any residential district; any such screening located in or adjoining any front yard shall be limited to vegetation which provides effective year-round screening.
- F. All such uses shall be fenced where any hazard to the safety of human or animal life is present.
- G. No service or storage yard or building shall be permitted except as permitted for other uses in the district.
- H. The level of noise emanating from such use shall not exceed 66 decibels (dB) by day and 45 dB by night measured at any lot line which is also the lot line of a property in the Residential or Planned Development District, or a permitted or specially permitted residential use in any other zoning district, if the residential use was established prior to the establishment of the utility.

§ 136-38 **Recreational vehicles.**

Recreational vehicles shall be subject to the following requirements:

- A. Except as specified by Chapter **75** of this Code, no recreational vehicle, camper or tent shall be occupied or connected to any utilities without a three-day nonrenewable permit issued by the Code Enforcement Officer.
- B. No more than 1 recreational vehicle allowed on any residential property as specified in Chapter **75**.

§ 136-39 **Retail sales and services.**

Retail sales and service shall be subject to the following requirements:

- A. All sales, displays and storage shall be conducted within a completely enclosed building unless authorized through site plan review.
- B. Ingress, egress and traffic circulation on the site shall be designed and maintained to minimize hazards and congestion.

§ 136-40 **Storage of junk motor vehicles.**

See Chapter **120** of this Code.

§ 136-41 **Temporary uses.**

Except as otherwise expressly provided in this section, temporary uses are permitted, subject to the standards hereinafter established.

- A. Particular temporary uses permitted. Application must be made to the Code Enforcement Officer, who may issue such permit(s) for the allowable uses in this section, setting forth in the permit any conditions or requirements which will be applicable to the temporary use. This section shall not apply to resort-oriented events and uses authorized by the Village Board.
- (1) Temporary art and craft festival, show, exhibit or sale by not-for-profits.
 - (a) A temporary outdoor festival, art and craft show, exhibit or sale may be permitted in any district by any not-for-profit organization when approved by the Code Enforcement Officer on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of any undue adverse impact on surrounding properties and districts.
 - (b) Such use shall be limited to one event for a period not to exceed seven consecutive days per year.
 - (c) The hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
 - (d) Such use need not comply with the front yard requirements of this chapter, except that structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within 30 feet of the intersection of the curb lines of any two streets.
 - (e) Such use need not comply with the maximum height requirements of this chapter.
 - (f) A temporary indoor art or craft show, festival, exhibit or sale may be permitted in any nonresidential district or in any public park in a residential district subject to prior approval by the Code Enforcement Officer. Such use shall be limited to a period not to exceed three days per event and no more than two events per year for each organization.
 - (2) Real estate office, contractor's office, equipment shed and construction staging areas.
 - (a) Real estate offices.
 - [1] Real estate offices containing no sleeping or cooking accommodations, unless located in a model dwelling unit, may be permitted in any district when accessory to a new housing development.
 - [2] Such use shall be limited to the period of the initial active selling or leasing of dwelling units in such development.
 - (b) Contractors' offices, equipment sheds and construction staging areas containing no sleeping or cooking accommodations may be permitted in any district when accessory to a construction project. Temporary storage shall be allowed as an accessory use to the contractors' office or equipment shed.
 - (c) Such uses shall be limited to a period not to exceed the active duration of such project.
 - (3) Seasonal sales.

- (a) Seasonal sales, including, but not limited to, Christmas tree sales, may be permitted in any nonresidential district by any not-for-profit group or organization when conducted by such group or organization when approved by the Code Enforcement Officer on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact on surrounding properties and districts. Such sales shall be limited to one event per organization each year.
- (b) Such use shall be limited to a period not to exceed 45 days.
- (c) Display of Christmas trees need not comply with the yard and setback requirements of this chapter, except that no tree shall be displayed within 30 feet of the intersection of the curb lines of any two streets.
- (4) Temporary outdoor sales for businesses.
 - (a) A temporary outdoor sale may be permitted on the premises of the operating business in the VC and CR Districts by the Code Enforcement Officer depending on the adequacy of the lot size, parking provision, and traffic access and the absence of any undue adverse impact on the neighboring properties and districts.
 - (b) Such use shall be limited to one event for a period not to exceed seven consecutive days each year.
- (5) Private dining tents. A maximum of one dining tent (with and without screens) or canopy used for dining or other purposes may be erected from May 1 to October 1. Dining tents or canopies may not be used for camping purposes in a residential district.
- B. Parking. Before approving any temporary use, the Code Enforcement Officer shall make an assessment of the total number of off-street parking spaces which shall be reasonably required for the particular use, its intensity, and the availability of other parking facilities in the area, and shall approve such temporary use only if such off-street parking is provided.
- C. Period of operation.
 - (1) A temporary use shall be operated only during those hours or on any days of the week as specified in this section and as approved by the Code Enforcement Officer on the basis of the nature of the temporary use and the surrounding uses.
 - (2) Each not-for-profit organization or for-profit business shall be limited to one temporary use per calendar year, unless noted otherwise in this section.

§ 136-42 (**Reserved**)

Article VII General Development Standards

§ 136-43 **Bulk storage of combustible or flammable liquids.**

- A. All bulk combustible liquids over 400 gallons in residential districts, and 1,000 gallons in all other districts; or flammable liquids over a temporary portable tank storage of 660 gallons, shall be stored underground per the National Fire Protection Association Pamphlet #30. Any aboveground tank installed shall be protected from leaks and/or spills by a double-wall storage tank or proper diking, per the national Fire Protection Association Pamphlet #30. The Code Enforcement Officer shall have

discretionary authority to approve larger aboveground storage facilities in accordance with National Fire Protection Association standards. In accordance with the requirements of § 136-47, all tanks installed above ground shall be completely screened from any public right-of-way.

- B. All propane tanks shall be stored underground. Propane tanks that cannot be stored underground require a special use permit issued by the Planning Board.

§ 136-44 **Campgrounds.**

See Chapter 75 of this Code.

§ 136-45 **Commercial building design standards.**

A. Building elevations.

- (1) Any facade facing a sidewalk, public right-of-way, public-street, waterway or Public Lands District shall have an active building elevation. Active building elevations shall include windows, building entrances and other architectural features that enhance the pedestrian scale and experience of the building facade. Rear doors, loading docks, and service entries are prohibited along frontages.
- (2) New construction shall respect existing building widths by providing a division of the facade into visible building increments no larger than the average width of existing buildings on the block.
- (3) Where the street frontage is defined by a continuous building facade, the proposed new building or infill construction shall maintain such continuous facade by building from side lot line to side lot line unless access is required for rear yard parking.
- (4) Structures where all building elements are less than 35 feet in height and with walls of more than 1,500 square feet shall incorporate facias, canopies, arcades, building setbacks of three feet or more or other design features to break up large wall surfaces on the street-facing elevations. Wall surfaces shall be visually divided by such features into areas of 750 square feet or less.
- (5) All architectural openings, including windows, doorways, and arches, shall be constructed with their height equal to or greater than their width.
- (6) Sliding doors and sliding windows are prohibited along frontages.

B. Building layout.

- (1) The front facade and main entrance shall face and parallel the line of a public street and shall have a direct pedestrian connection to the street. Departures from this regular pattern should be allowed only to terminate important vistas along streets or sidewalks or to act as focal points for public spaces.
- (2) Trademark buildings, which identify the owner or occupant by a trademarked architectural style, are prohibited. Buildings with advertising icon images detract from the identity of Sylvan Beach.
- (3) Franchise operations shall be designed to harmonize with mixed-use areas.

C. Curb cuts and walkways.

- (1) Curb cuts and interruptions of the pedestrian sidewalk should be kept to a minimum. Where interrupted by curb cuts, the continuity of the sidewalk surface should be maintained, while the material of the

driveway should be interrupted.

- (2) No sidewalks or walkways shall be paved with asphalt.

D. Building materials.

- (1) The exterior siding materials and color of accessory structures shall conform to that of the principal structure.
- (2) Concrete block, corrugated concrete and "cinder block," T1-11, metal wall surfaces and asbestos are prohibited siding materials.
- (3) Treated lumber used in the construction of decks, balconies and porches must be concealed, with the exception of the decking.

E. Mechanical equipment.

- (1) To the maximum extent practical, all roof-mounted and ground-mounted mechanical equipment shall be screened from view or isolated so as not to be visible from any public right-of-way or residential district within 150 feet of the subject lot, measured from a point five feet above grade. Roof screens, when used, shall be coordinated with the building to maintain a unified appearance.
- (2) Mechanical equipment and open storage areas shall be screened from public streets, alleys, paths, private streets and abutting lots to a minimum height of six feet. When solid screening is used, the materials shall be compatible with the building.

F. Awnings.

- (1) Application procedure. No awning shall be placed, affixed or attached unless a colored scale drawing thereof shall be approved by the Planning Board.
- (2) Encroachment. If any part of any awning encroaches into any air space over Village property, and if such encroachment is permitted by the Village Board of Trustees, the owner of such awning shall execute a hold-harmless agreement upon such forms as provided by the Village and shall also provide to the Village a complete copy of a policy of liability insurance in which the Village is named as an additional insured in the minimum sum of \$500,000 per occurrence.
- (3) Standards in the Village Center District.
 - (a) Material. Awnings shall be made of fixed or retractable canvas.
 - (b) Supports for awnings may be made of wood, metal or other suitable material.
 - (c) Projection. Awnings shall have a minimum projection of five feet and a maximum projection of seven feet from the building face.
 - (d) Clearance. Awnings shall have a minimum clearance of seven feet six inches. All measurements of clearance shall be from the ground to the bottom of the awning.
 - (e) Signs on awnings shall only be located on the leading edge or on the side panels and must be approved

by the Planning Board.

- (f) Awnings shall not be internally lit or backlit.
- (g) Awning colors shall be consistent with those of the building.
- (4) Maintenance. All awnings shall be maintained in a good and safe condition. Any awning that is visibly deteriorated shall be removed by the owner of the awning upon written notice from the Zoning Code Enforcement Officer.

§ 136-46 Dumpster and refuse collection areas.

- A. Dumpsters. Dumpsters must be completely screened from view, when visible from any Residential or Public Lands District or public street or walkway, with screening that is at least as tall as the dumpster. This provision shall apply to all dumpsters, including those used for the collection and storage of recyclable materials, whether public or private (maximum eight-foot height).
- B. Refuse collection areas in all districts. Refuse collection areas for multifamily and commercial uses shall be subject to the following:
 - (1) Refuse areas and similar facilities shall be completely enclosed within a masonry wall or fence that is compatible with the building materials and which shall be at least six feet high on three sides while maintaining a one-hundred-percent visual blockage on all three sides and a self-closing gate on the fourth side of the same or compatible material with the other sides. All screening shall be maintained in such manner as to present a neat and orderly appearance at all times.
 - (2) Refuse areas shall have hardened, stabilized surfaces constructed to prevent accumulation of stormwater runoff.
 - (3) All refuse collection areas shall be at the side or rear of the buildings. All refuse collection areas shall be effectively designed to contain all refuse generated on site and deposited between collections.
 - (4) Refuse shall not be visible from outside the refuse enclosure.
 - (5) Refuse collection areas shall be located upon the lot as to provide clear and convenient access by refuse collection vehicles.

§ 136-47 Fences and walls.

The following requirements for fencing and walls apply to all districts in the Village of Sylvan Beach:

- A. Fences on lots with no principal structure. Fences and walls shall require a building permit. Fences are not permitted on lots without a principal structure.
- B. Fence heights.
 - (1) The height of all fences or walls shall be measured from the average finished grade within two feet of the fence line.
 - (2) No fence or wall in a residential district shall exceed six feet in height in the side and rear yards.
 - (3) A fence of 12 feet shall be allowed to enclose a private or public tennis court or public basketball courts.

- (4) In no event shall fences or walls in nonresidential districts abutting residential districts exceed six feet in height.
- (5) Within residential and commercial districts, no fence or wall, other than a necessary retaining wall, over four feet in height shall extend into the front yard of any lot.

C. Fence surfaces.

- (1) In residential districts, fences not more than sixty-percent solid may be located in any front yard.
- (2) All solid fences shall be installed so that the finished side shall face outward; all bracing shall be on the inside of the fence.
- (3) No chain-link fencing shall be permitted in the front yard.

D. Street intersections. At all street intersections, a clear sight triangle shall be maintained from 30 inches in height and above formed by the street lines on such lot and a line drawn between points along such street right-of-way 20 feet distant from the point of intersection, with the exception of necessary signage or approved landscaping.

E. Design and maintenance.

- (1) All required fences and walls shall be maintained (on both sides) and, when necessary, repaired or replaced.
- (2) Wooden retaining walls are prohibited.

F. Fencing Materials. Fences and walls shall be constructed of long-lasting materials and architecturally integrated with the building design and with existing fences/walls on the site, as determined at discretion of the Village Planning Board and Village Codes Enforcement Officer. Unless approved as a condition of approval or in conjunction with another permit, the following limitations apply:

- (1) Fences and gates approved for screening, yard containment, swimming pools or decoration purposes in all districts shall be solid wood, solid vinyl, masonry, tubular steel, chain-link or wrought iron. Residential districts may utilize chain-link outside of the required yards, including for fencing approved for screening purposes. Open view fencing is required for construction in front yards.
- (2) Barbed wire fencing shall not be constructed or placed on top of a fence in any Village District.
- (3) Alternative materials may be approved by the Village Planning Board or Village Codes Enforcement Officer.
- (4) Maintenance. Fences and walls shall be continuously maintained in orderly and good condition.

§ 136-48 Off-street loading.

- A. Location of required loading spaces. Loading spaces shall be located on the same lot, or on a directly adjoining lot in the same zoning district, as the building or structure to which they are accessory. No loading space shall be located in any required front yard setback.
- B. Design and maintenance. Every loading space shall be designed, constructed and maintained in

accordance with the standards and requirements herein set forth:

- (1) Screening.
 - (a) Sufficient screening shall be provided along all lot lines abutting any residentially zoned or developed property to buffer the residential use from all operations, materials and vehicles within any loading space.
 - (b) Loading areas accessory to commercial uses, shopping centers or planned business developments shall be located and screened from public view.
- (2) Design standards.
 - (a) Each loading space shall have the following minimum dimensions, in feet, except for those spaces approved by the Code Enforcement Officer after site plan review:

Type	Width	Length	Height
Tractor-trailer	12	55	14
Other	12	35	14

- (b) Loading spaces shall be designed and arranged to provide access to a street or alley in a manner that shall create the least possible interference with traffic movement. Access to and from the right-of-way to the loading spaces shall be referred to the Code Enforcement Officer for comment.
- (c) Every loading space shall be surfaced with an asphalt or Portland cement binder pavement providing an all-weather, durable and dustless surface and shall be graded and drained to dispose of surface water accumulation by means of an on-site stormwater drainage system. Individual stalls shall be clearly identified by markings four inches to six inches in width.
- (d) No part of a loading area shall be utilized for the open air outdoor storage of materials, merchandise and equipment.
- (e) When any part of a loading area is also utilized for refuse and trash disposal and storage purposes, all outdoor containers shall be closed and permanently stationed in an area that is easily accessible for pick up and removal and that satisfies the screening requirements of this chapter.
- (f) Loading and unloading operations shall be designed so they minimize the number and width of curb cuts.

§ 136-49 Off-street parking.

A. Change in use or intensity.

- (1) Whenever a use existing on the effective date of this chapter is changed thereafter to a new use, parking facilities shall be provided as required herein for such new use, except that when any such existing use was deficient in required parking spaces on such effective date, such new use may be established with a deficiency in required parking spaces equal in number to not more than such preexisting deficiency.

(2) Whenever the intensity of use of any building, structure or use is increased, parking facilities shall be provided for such increase in intensity of use.

B. Measurement and computation.

(1) Computation of required spaces.

(a) When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including 1/2 shall be disregarded and fractions over 1/2 shall require one parking space.

(b) In places of worship and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facility shall be counted as one seat for the purpose of determining the requirement for off-street parking facilities under this chapter.

(c) When parking spaces are required on the basis of the number of staff or employees, the maximum number present at any one time shall govern.

(2) Uses not specified. For uses not expressly listed in this section, parking spaces shall be provided on the same basis as required for the most similar listed use, as determined by the Code Enforcement Officer to interpret the provisions of this chapter.

C. Required parking spaces.

(1) Vehicle parking. For the following uses, the number of off-street parking spaces shall include:

Use	Minimum Number of Spaces
RESIDENTIAL	
Single-family detached, dwelling	2 per dwelling unit
Multifamily dwelling	1 per dwelling unit
EDUCATIONAL AND RELIGIOUS	
Day care or nursery	1 per 6 persons enrolled
Place of worship	1 per 3 seats at maximum capacity
CULTURAL AND RECREATIONAL	
Amusement center	As determined by site plan review
Auditorium and theaters	1 per 4 seats
Boat launch	1.5 for each trailer
Boat storage	As determined by site plan review
Bowling alley	2 per lane
Community center	3 per 1,000 SF gross floor area
Health club	2 per 1,000 SF gross floor area
Library	1 per 600 SF gross floor area
Marina	1 per boat slip without charter boat 2 per boat slip with charter boat
Museum or art gallery	1 per 800 SF gross floor area

Use	Minimum Number of Spaces
Recreation facilities	As determined by site plan review
Tour boat operation	As determined by site plan review
GOVERNMENT, SAFETY AND HEALTH	
Public buildings	1 per 200 SF gross floor area
Medical clinic, medical office	1 for each 4 patients
Nursing home, health-related facility	1 for each 4 residents
Residential care facility	As determined by site plan review
RETAIL	
General retail	As determined by site plan review
SERVICES	
Bank	2 per 1,000 SF gross floor area
Bar, tavern, nightclub	As determined by site plan review
Bed-and-breakfast establishment	1 per guest bedroom, plus 1 for the owner
Hotel and motel	1 per room
Funeral home	1 per 4 seats
Office, professional or business	As determined by site plan review
Restaurant, carry-out	As determined by site plan review
Restaurant, with drive-through facility	As determined by site plan review
Restaurant, full service	As determined by site plan review
School	4 per classroom
Owner Occupied Transient Occupancy Lodging	1 space for each vehicle used by the owner occupants plus a minimum of one space per 2 transient occupants. Or as determined by CEO
Non-Owner Occupied Transient Occupancy Lodging	A minimum of once space per 2 transient occupants or as determined by CEO

- (2) Bicycle parking. Bicycle parking shall be provided at 25% of the vehicle parking requirements.
- D. Design for vehicle parking. Every parking area and parking lot shall be designed, constructed and maintained in accordance with the standards and requirements set forth herein.
- (1) Location.
- (a) Parking shall be located within 1,000 feet of the use served.
- (b) In all residential use districts, no parking shall be located in the required front yard setback except in a legal driveway that provides access to the residence, the rear yard, or a detached or attached garage.
- (c) Parking shall not be permitted between a building and the sidewalk on the street. Where existing or proposed buildings are set back from the public right-of-way, the front yard shall not be converted to parking.

- (d) Customer or employee parking for nonresidential uses shall not be located within 10 feet of any residential district or use, except where a solid screening wall at least six feet in height is placed on the lot line, in which case no setback shall be required.
- (e) Parking shall not be located within 10 feet of any street frontage, except where a decorative fence or wall of no more than three feet in height is used in conjunction with landscaping.
- (f) Parking of commercial vehicles in residential districts is prohibited. It shall be unlawful for any resident or any owner, agent, operator, or person in charge of any bus, semi-trailer, trailer, motor truck, tractor, and/or truck-tractor or any vehicle having a commercial registration plate and a gross vehicle weight of more than 8,000 pounds to park, store, or keep such motor vehicle on any residential property or on any public street, alley, or any right-of-way in any residential zoning district for a period in excess of one hour unless engaged in legitimate loading or unloading activities or in the conduct of providing professional services. It shall be unlawful for any resident in any residential zoning district to park on, cause to be parked on, or allow to be parked on his or her residential property more than one vehicle of 8,000 pounds' or less gross vehicle weight which is used for commercial purposes unless garaged entirely within a building. For the purposes of this section, "commercial purposes" shall mean having a commercial registration plate or commercial lettering or signage. The Code Enforcement Officer may issue an exemption from this section to any resident upon the Code Enforcement Officer's determination that enforcement against the resident creates a hardship and that the requested parking will not cause excessive noise or otherwise create a nuisance; in issuing an exemption, the Code Enforcement Officer may impose such conditions as he believes are necessary to protect the public interest.
- (g) Parking lots and parking areas shall be screened from abutting residential uses and districts with a solid screening a minimum height of six feet.
- (h) Up to 50% of the parking spaces required by this section may be otherwise located off site as approved by the Planning Board upon findings that:
 - [1] It is impractical to provide parking on the same lot with the structure.
 - [2] The required space is fully provided in a permanent, safe and easily accessible manner.
 - [3] The off-site parking area is within 500 feet of the parcel or use it is supporting and within the same or a less-restricted district.
- (i) Up to 25% of the parking spaces required in this section for an office use may be landscaped and reserved for future parking upon approval of the Planning Board and subject to the following conditions:
 - [1] The parking reserve plan shall show the location and layout of the parking held in reserve, and all other parking and access, together with all stormwater facilities which shall be sized to accommodate the reserve parking and any other amenities that would be necessary if the reserved parking were built.
 - [2] The applicant shall also submit competent information to justify the reservation.
 - [3] If any of the reserve parking is to be constructed, initiated by the applicant or as provided for below, the applicant shall first obtain site plan review approval from the Planning Board.
 - [4] Within 30 days from the date of a written notice from the Code Enforcement Officer, based upon an

observation that parking at the facility is insufficient, the applicant/owner of the facility shall file an application for site plan review. The applicant/owner shall diligently pursue such approval and subsequent construction of additional parking as may be required by site plan review. The observation that parking has become insufficient shall include the following or similar circumstances: (a) regular or significant numbers of vehicles parked in unapproved areas of the site; (b) off-site parking on neighboring properties; or (c) parking on public streets. Such evidence must be of a continuous nature rather than a single occurrence (e.g., some special event or a "renegade parker").

(2) Parking and landscaping.

- (a) A landscaped area shall have a minimum width of five feet, excluding curbs, retaining walls or similar enclosing structures.
- (b) Plant materials located in snow storage areas shall be selected to withstand the conditions associated with these areas.
- (c) All parking lot landscaping shall be salt tolerant.
- (d) Trees located in paved areas shall be provided with adequate tree pits to permit proper watering.
- (e) A minimum of one landscaped area with a minimum size of 200 square feet (approximately 10 feet by 20 feet) shall be provided for every 15 parking spaces and developed as islands within the parking surface area.
- (f) Parking lot stops shall include permanent material, such as concrete, masonry, metal or rubber. In no case shall wooden stops be used.
- (g) All required screening and landscaping shall be maintained and, if required, replaced to comply with the requirements in this section and any approvals.

(3) Space sizes.

- (a) The following minimum standards shall apply to the width and length of required parking spaces:

Type of Parking	Angle	Stall Length	Stall Width	Aisle Width
Traditional	90°	19' 00"	9' 06"	24'-00"
Traditional	60°	21' 00"	9' 06"	One-way, 18' 00"
Traditional	45°	19' 10"	9' 06"	One-way, 13' 00"
Handicapped*	90°	19' 00"	13' 00"	24' 00"
Handicapped*	60°	21' 00"	13' 00"	One-way, 18' 00"
Handicapped*	45°	19' 10"	13' 00"	One-way, 13' 00"

Note:

*Loading area abutting stall shall be eight feet wide.

- (b) These requirements may be amended for lots where the Code Enforcement Officer has obtained written proof from the applicant that the lot will provide valet parking.
- (4) Maneuvering space. Maneuvering space shall be located completely off the right-of-way of a public street unless otherwise approved by the appropriate authority.

- (5) Surface.
 - (a) Off-street parking lots and parking areas shall be constructed in such a manner so as to provide an all-weather, durable and dustless surface. Individual stalls shall be clearly identified by markings four inches in width.
 - (b) Parking surfaces shall be graded and drained to dispose of all surface water accumulation in the area without shedding additional water on an adjoining property or rights-of-way.
- (6) Lighting.
 - (a) Lighting fixtures shall be designed, sized and located so as not to cast direct rays of excessive brightness upon adjoining premises or cause glare hazardous to pedestrians or person using adjacent public streets.
 - (b) Parking lots used after sundown shall be lighted to give protection to persons using the lot, and the light source shall cast down.
 - (c) All parking lots shall be required to provide lighting from dusk to dawn that meets Illuminating Engineering Society of North America (IESNA) standards.
- E. Design of bicycle parking.
 - (1) Bicycle parking shall be located and clearly designated in a safe and convenient location, at least as convenient as the majority of auto spaces provided.
 - (2) Facilities shall be designed to accommodate U-shaped locking devices and shall support bicycles in a stable position without damage to wheels, frame or other components and shall be securely anchored and of sufficient strength to resist vandalism and theft.

§ 136-50 Outdoor displays.

Outdoor displays shall be allowed in the Village Center District and Commercial Resort District, subject to the following:

- A. Outdoor displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than five feet from the wall.
- B. Such displays shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
- C. Outdoor displays shall be temporary or seasonal in nature.

§ 136-51 Outdoor lighting.

- A. Outdoor lighting criteria and standards are provided to ensure coordinated, safe and functional lighting systems in each development. The standards set forth below shall apply to freestanding light fixtures and/or outdoor light fixtures affixed to a building or structure. Existing outdoor lighting shall meet the following criteria and standards within two years of adoption of this chapter.
- B. Standards.
 - (1) Light levels at the property line shall not exceed 0.1 foot-candle.

- (2) Pedestrian area, plaza and walk lights shall not exceed 15 feet in height and should be designed to be harmonious with light fixtures on site.
- (3) All light fixtures shall be concealed-source fixtures, except for pedestrian-oriented accent lights.
- (4) Security lighting fixtures shall not project above the facade or roofline of any building and are to be shielded. Lighting shields shall be painted to match the surface to which they are attached. Security lighting fixtures shall not be substituted for parking lot or walkway lighting fixtures and are restricted to lighting only loading and storage locations or other similar areas requiring security lighting.
- (5) Service-area lighting shall be contained within the service yard boundary. No light spillover shall occur outside the service area; the light source shall not be visible from the street.
- (6) Exterior wall-mounted floodlights shall be prohibited except for security lighting in enclosed service courtyards.
- (7) Parking lot light poles shall not exceed 30 feet.

§ 136-52 Outdoor storage.

Outdoor storage shall only be allowed in the VC and CR Districts in accordance with this section.

- A. Outdoor storage shall not be allowed in the front yard.
- B. Outdoor storage shall not occupy more than 10% of the entire lot area and shall meet the following criteria:
 - (1) All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential uses.
 - (2) Screening shall be of sufficient height and density to completely hide the storage from public view.
 - (3) All screening shall be maintained in such a manner as to project a neat and orderly appearance at all times.
- C. Outdoor storage shall only exist as an accessory use.

§ 136-53 Planned recreational development standards; miniature golf courses.

- A. General standards.
 - (1) The recreational facilities and incidental uses located on the same lot or part of the same development shall be treated as a single business for the purposes of the sign provisions of this chapter.
 - (2) There shall be only one major public entrance to the development, and incidental uses shall be oriented towards the center of the recreational use. Public access to the incidental uses shall be available only from the interior of the development.
 - (3) Off-street parking shall be provided for employees and staff.
 - (4) Lighting shall be oriented so as to minimize disturbance to surrounding properties.
 - (5) Games of skill or chance will be permitted only in a completely enclosed building of a permanent nature

except in a designated amusement park. More than three games at one location will constitute an arcade and must meet the requirements hereinafter set forth.

- (6) Arcades must be housed in a suitable structure with access to the sidewalk with no more than one opening. In no event may access doors, if more than one is permitted, be closer than 20 feet to one another.
- (7) No land, including any building thereon, may be used for the operation of a drive-in theater.

B. Miniature golf courses.

- (1) A suitable fence or screen planting shall be provided around the entire playing area of the course.
- (2) The applicant must provide a landscaping plan that illustrates the location, size, and type of plant material proposed.
- (3) No devices included in the playing course shall exceed a height greater than 35 feet from the ground.
- (4) A suitable fence or screen planting six feet in height shall be provided where the course abuts any residential street or private dwelling.

§ 136-54 Residential building design standards.

A. Open porches.

- (1) No existing open porch visible from any public right-of-way shall be removed unless the original design of the building lacked such a porch.
- (2) No open porch visible from any public right-of-way shall be enclosed. Screening of porches is permitted.

B. Yard areas.

- (1) Except for driveways and walks, no portion of the front yard shall be paved with asphalt or concrete.
- (2) Clotheslines shall not be located between the principal structure and its street frontage.
- (3) The location of electric or gas meters, compressors, and generators is subject to site plan review.
- (4) No sidewalks or walkways shall be paved with asphalt.

C. Building materials. The materials of accessory structures shall conform to that of the principal structure.

§ 136-55 Shoreline construction and landscape standards.

All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to preserve as many mature trees and as much existing vegetation as possible, and to generally maintain the existing aesthetic and ecological character of the shoreline.

- A.** No marina, boat service facility, or any storage of petroleum products shall be allowed within 100 feet of any shoreline, or a reasonable setback as determined necessary by the provisions of this chapter, unless measures have been taken to ensure that any leak, rupture or spill will be contained and not be

introduced into or affect the adjacent waterway.

- B. Any paved or otherwise improved parking, loading or service area within 100 feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway in accordance with the stormwater provisions of this chapter.
- C. No nonnative or evergreen hedge may exist adjacent to property boundaries within five feet of the shoreline (mean high water level).

§ 136-56 Sight triangles.

A sight triangle shall be maintained free from visual obstructions for a distance of 20 feet in both directions from a street corner and a distance of 10 feet in both directions from a curb cut along a public right-of-way, so as to provide safe sight distance for both vehicles and pedestrians.

§ 136-57 Swimming pool standards.

A swimming pool shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:

- A. A private swimming pool shall be located in a rear yard only (front yard only for waterfront properties).
- B. A private swimming pool shall not occupy more than 25% of the rear yard area.
- C. The swimming pool area shall be entirely enclosed with a durable fence not less than four feet in height.
- D. Every gate or other opening in the fence enclosing any swimming pool shall be kept securely closed and latched at all times when such pool is not in use.
- E. A swimming pool shall not be less than 10 feet from side and rear lot lines.
- F. The water inlet of every swimming pool shall be above the overflow level of said pool.
- G. No permit shall be granted for the installation of construction of any commercial swimming pool unless a professional engineer licensed by the State of New York or the contractor has certified that the drainage plan and construction plan of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities, or with the public streets or adjacent properties.
- H. All NYS Regulations

§ 136-58 (Reserved)

§ 136-59 (Reserved)

Article VIII Nonconforming Uses and Structures

§ 136-60 Purpose.

- A. This article regulates and limits the continued existence of uses, structures or other improvements established prior to the effective date of this chapter that do not conform to the regulations of this chapter applicable in the zoning districts in which such nonconformities are located.
- B. The zoning districts established by this chapter are designed to guide the future use of the Village's land by encouraging the development of desirable residential and mixed-use areas with appropriate

groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare.

- C. The continued existence of certain nonconformities is frequently inconsistent with the Comprehensive Plan, and thus the gradual elimination of such nonconformities is desirable. Other nonconformities may continue to exist and afford adaptive reuse opportunities that can contribute to neighborhood character, diversity and services.
- D. The regulations of this article are intended to restrict further investments that would make nonconformities more permanent in their location in inappropriate districts or locations as well as to afford opportunities for creative use and reuse of those other nonconformities that contribute to a neighborhood and are consistent with the goals of the Comprehensive Plan.

§ 136-61 Nonconforming uses.

- A. Continuance. Any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the regulations contained in this section. Ordinary repair and maintenance or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed.
- B. Structural alteration or enlargement. No structure shall be structurally altered or enlarged unless the use thereof shall thereafter conform to the regulations of the zoning district in which it is located. No parking, yard, space or bulk nonconformity may be created or increased.
- C. Damage or destruction.
 - (1) When a structure is damaged or destroyed by any means not within the control of the owner, to the extent of more than 50% of the cost of replacement of the structure new, the structure shall not be restored unless its use thereafter conforms to the use regulations of the zoning district in which it is located. No parking, yard, space or bulk nonconformity may be created or increased.
 - (2) When a structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that:
 - (a) No parking, yard, space or bulk nonconformity is created or increased.
 - (b) A building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
 - (3) In no event shall any damage or destruction to such a structure by any means within the control of the owner be repaired or restored, except in accordance with this chapter.
- D. Moving. No structure or use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and/or use conforms to all regulations of the zoning district in which it is located after being so moved.
- E. Expansion of use. No use shall be expanded, enlarged or increased in intensity. Such prohibited activity shall include, but shall not be limited to:

- (1) Expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this chapter, or any amendment hereto, which causes such use to become nonconforming.
- (2) Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this chapter, or any amendment to this chapter, which causes such use to become nonconforming.
- (3) An extension of the hours of operation of such use beyond the existing hours of operation at the adoption of this chapter shall not be allowed.

F. Change in use.

- (1) A nonconforming use in a structure designed for a use permitted in the district in which it is located shall not be changed to any use other than a use permitted in the zoning district in which the property is located.
- (2) Once changed to a permitted use or to a more restrictive use in accordance with Subsection **F (1)** above, the use shall not be changed back to the prior nonconforming use. The use is changed when an existing nonconforming use is terminated and a new use commences and continues for a period of seven consecutive days, including any change of use in violation of this subsection.

G. Abandonment or discontinuance.

- (1) When the active operation of all or a portion of a nonconforming use is discontinued or abandoned for a period of nine consecutive months, regardless of any intent to resume or not to abandon the use, the use or portion thereof shall not be reestablished or resumed. The active operation of a use shall be the typical or normal activities associated with the use. In the case of abandonment or discontinuance of all of a nonconforming use, any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such structure is located. In the case of abandonment or discontinuance of a portion of a nonconforming use, the remaining occupied portion of the nonconforming use may continue subject to the provisions of this subsection.
- (2) For the purpose of this section, the following circumstances, which shall not be exclusive, shall contribute towards evidence of discontinuance or abandonment of a use:
 - (a) Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours); or
 - (b) Failure to maintain equipment, supplies or stock-in-trade, which would be used for the active operation of the use; or
 - (c) Failure to maintain utilities which would be used for the active operation of the use; or
 - (d) Failure to pay taxes, including, but not limited to, sales taxes, workers' compensation taxes, corporate taxes, etc. that would be required for the active operation of the use; or
 - (e) Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use. Prior to a determination by the Code Enforcement Officer, based upon

evidence of any of the above circumstances or other relevant evidence that a nonconformity has been discontinued or abandoned, the owner or operator shall have the opportunity to apply for a certificate of nonconformity and, thereby, establish by relevant and credible evidence that the use has not been discontinued or abandoned.

- (3) The legality of one or more nonconforming uses located within a property shall not affect the determination that another nonconforming use on the same property has been discontinued or abandoned.
 - (4) An owner or operator shall have the opportunity to submit any evidence or proof that the property and its use have not been discontinued or abandoned. The Code Enforcement Officer shall then issue a letter of determination based upon the evidence of any of the above circumstances or other relevant evidence that nonconformity has continued, been discontinued or abandoned.
- H. Nonconforming accessory uses and structures. No use, structure or sign that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated.
- I. Uses deemed conforming. A mobile home park or marina existing in the Residential District at the time of the adoption of this chapter, or any amendments thereto, shall be deemed a conforming use upon the lot then devoted to such use, provided that such use has been legally established.

§ 136-62 Nonconforming structures.

- A. Continuance. Any nonconforming structure which is devoted to a use which is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions in this section.
- B. Repair or alterations. Any nonconforming structure may be maintained, repaired or altered, provided no additional nonconformity is created or the degree of the existing nonconformity is increased. Any permit issued for a nonconforming structure or use is subject to site plan review.
- C. Damage or destruction.
- (1) In the event that any part of a nonconforming structure which contributed to its nonconformity is damaged or destroyed, by any means, to the extent of more than 50% of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the regulations of the zoning district in which it is located.
 - (2) When any part of a nonconforming structure is damaged or destroyed, by any means, to the extent of 50% or less of the cost of replacement of such part new, no repairs or restoration, except in conformity with the applicable zoning district regulations, shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- D. Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

§ 136-63 Nonconforming lots of record.

- A. In any district in which single-family dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this chapter, a single-family detached dwelling which complies with the yard, space and bulk requirements of the district in which it is located may be erected on a nonconforming lot. This includes construction of a single-family dwelling on any lot less than 50 feet in width, consisting entirely of one tract of land of not less than 5,000 square feet.
- B. In any district in which single-family dwellings are not permitted, a nonconforming lot of record may be used for any use permitted in the district in which it is located if site plan approval is granted in accordance with the provisions of this chapter.

**Article IX
Review Authorities**

§ 136-64 Responsibility for administration.

Direct responsibility for the administration and enforcement of the provisions of this chapter shall be vested in the Code Enforcement Officer, Village Board, Planning Board and Zoning Board of Appeals, all in accordance with the provisions of this article.

§ 136-65 Village Board.

In addition to the jurisdiction conferred on it by other provisions of the regulations of the Village, the Village Board shall have the following powers and duties:

- A. Text amendments. The Village Board shall be responsible for reviewing text amendment applications and for taking final action to approve, approve with modifications or deny such applications.
- B. Map amendments. The Village Board shall be responsible for reviewing map amendment (rezoning) applications and for taking final action to approve, approve with conditions or deny such applications.

§ 136-66 Planning Board.

A. Membership.

- (1) Appointment. The Planning Board shall consist of five members appointed by the Mayor, subject to the approval of the Village Board of Trustees. [**Amended 5-16-2011 by L.L. No. 1-2011; 5-15-2017 by L.L. No. 2-2017**]
- (2) Board composition. All members of the Planning Board shall be residents of the Village of Sylvan Beach.
- (3) Compensation. All members of the Planning Board may serve with compensation as determined by the Village Board and shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.
- (4) Vacancies. Permanent vacancies on the Planning Board shall be filled by the Mayor.
- (5) Mandatory training. All members of the Planning Board shall be required to attend at least eight hours of training regarding municipal planning, land use and environmental issues during their first year on the Board. For each subsequent year, the Planning Board members shall be required to attend four hours of such training. All training shall be relevant to the member's powers or duties on the Planning Board and sponsored by the New York Planning Federation, State of New York or any political subdivision

thereof, or any session approved by the Planning Board Chairperson and Code Enforcement Officer.

(6) Removal.

(a) Any member of the Planning Board may be removed for cause by the Village Board at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public meeting. Cause for removal of a member may include one or more of the following:

[1] Any undisclosed or unlawful conflict of interest;

[2] Any violation of the codes or rules applicable to the member's performance of his or her duties;

[3] Any unwillingness or inability to carry out his or her duties in a prompt, conscientious and competent manner;

[4] Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing his or her duties or any other specific conduct of the member found by the Village Board to be detrimental to the proper functioning of the Board.

(b) No member who has been removed for cause shall be reappointed.

B. Chairperson. The Mayor, subject to the Village Board of Trustees' approval, shall appoint one of the Planning Board members as Chairperson, to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of a Chairperson, the Planning Board may designate a member to serve as Chairperson.

C. Planning Board Secretary and public record.

(1) The Planning Board Secretary shall attend all its proceedings and, upon request, the proceedings of any of its Committees.

(2) The Secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board.

(3) The Village Clerk shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

D. Voting procedures.

(1) Quorum. As to any matter requiring a hearing before the Planning Board, no business shall be transacted by the Board without three members of the Board being present. The concurring vote of at least three members shall be necessary for any action by the Board.

(2) Deliberation. As to any matter not requiring a hearing, the Planning Board may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.

(3) Voting. A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard, provided he or she has fully informed himself or herself of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

E. Meetings, hearings and rules of order.

(1) Meetings. Regular meetings of the Planning Board shall be held as provided for in the Planning Board bylaws.

(2) Hearings. All meetings and hearings of the Planning Board shall be open to the public.

(3) Rules of order. The Planning Board shall follow the rules and procedures for meetings as provided for herein and by the Planning Board bylaws.

F. Planning Board bylaws or rules. The Planning Board shall prepare and adopt bylaws and/or rules from time to time that address design guidelines, public input procedures, administrative procedures and development review process. Such bylaws shall be adopted by resolution following a public hearing by the Planning Board and following acceptance by resolution of the Village Board. Design guidelines shall also be approved by Village Board resolution.

G. Record and decisions.

(1) Record. The following shall constitute the record:

(a) The transcript of testimony, if any;

(b) The minutes of the Secretary;

(c) All applications, reports, requests, exhibits and papers filed in any proceeding before the Planning Board; and

(d) The decision of the Board.

(2) Decisions. The Planning Board may rely on the personal knowledge of its members, testimony at the public hearings, on its inspections of the property and on any reports available to it. Every decision of the Planning Board shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.

(3) Final decision. Decisions of the Planning Board shall first present findings and conclusions at a meeting open to the public and shall state any special circumstances or conditions. Decisions of the Board shall be final upon adoption of the minutes and/or resolution of Planning Board by a majority of the members of the Planning Board and the filing of the minutes and/or resolution with the Office of the Village Clerk.

(4) Failure to act.

(a) In any case where this chapter provides that the failure of the Planning Board to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day

following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

- (b) Where no decision is made by the Planning Board and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.
- (5) Notification of decision. Within five business days following the final decision on such applications, the Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Village Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.
- H. Conflicts. No member of the Planning Board shall participate in the hearing or disposition of any matter in which he or she has an economic interest. Any conflict of interest prohibited by Article 18 of the General Municipal Law shall disqualify a member.
- I. Appeals. An appeal from any final decision of the Planning Board may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, Code Enforcement Officer or board of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.
- J. Jurisdiction and authority. The Planning Board shall have the following jurisdiction and authority:
 - (1) To review and recommend on matters relevant to the Comprehensive Plan.
 - (2) To hear, review and offer its recommendations to the Zoning Board of Appeals for special use permit approval, subject to the provisions of § 136-78.
 - (3) To hear, review and finally decide applications for site plan review, subject to the provisions of § 136-76.
 - (4) To investigate and report its recommendations with respect to any proposed change or amendment in the Zoning Code or regulations of said Village and to pass upon any other matters which may from time to time be referred to it by the Village Board or the Zoning Board of Appeals.

§ 136-67 **Zoning Board of Appeals.**

A. Membership.

- (1) Appointment.
 - (a) The Zoning Board of Appeals shall consist of five members appointed by the Mayor and subject to the approval of the Village Board of Trustees.
 - (b) All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local code relating to training, continuing education, compensation and attendance, shall also apply to alternate members.
- (2) Board composition. All members of the Zoning Board of Appeals shall be residents of the Village of Sylvan Beach and shall not be officers or employees of the Village or any of its agencies or departments.

- (3) Compensation. All members of the Zoning Board of Appeals may serve with compensation as determined by the Village Board and shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.
- (4) Vacancies. Permanent vacancies on the Zoning Board of Appeals shall be filled by the Mayor.
- (5) Mandatory training. All members of the Zoning Board of Appeals shall be required to attend at least eight hours of training regarding zoning, land use and environmental issues during their first year on the Board. For each subsequent term, the Zoning Board members shall be required to attend four hours of such training. All training shall be relevant to the member's powers or duties on the Zoning Board of Appeals and sponsored by the New York Planning Federation, State of New York or any political subdivision thereof, or any session approved by the Zoning Board Chairperson and Code Enforcement Officer.
- (6) Removal.
 - (a) Any member of the Zoning Board of Appeals may be removed for cause by the Village Board at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public meeting. Cause for removal of a member may include one or more of the following:
 - [1] Any undisclosed or unlawful conflict of interest;
 - [2] Any violation of the codes or rules applicable to the member's performance of his or her duties;
 - [3] Any unwillingness or inability to carry out his or her duties in a prompt, conscientious and competent manner;
 - [4] Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing his or her duties or any other specific conduct of the member found by the Village Board to be detrimental to the proper functioning of the Board.
 - (b) No member who has been removed for cause shall be reappointed.
- B. Chairperson. The Mayor shall appoint one of the Zoning Board of Appeals members as Chairperson to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the Chairperson, the Zoning Board of Appeals may designate a member to serve as Chairperson.
- C. Zoning Board of Appeals Secretary and public record.
 - (1) The Zoning Board of Appeals Secretary shall attend all its proceedings and, upon request, the proceedings of any of its committees.
 - (2) The Secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board.
- D. Voting procedures.

- (1) Quorum. As to any matter requiring a hearing before the Zoning Board of Appeals, no business shall be transacted by the Board without three members of the Board being present. The concurring vote of three members shall be necessary for any action by the Board.
- (2) Deliberation. As to any matter not requiring a hearing, the Zoning Board may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.
- (3) Voting. A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard provided he or she has fully informed himself or herself of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

E. Meetings, hearings and rules of order.

- (1) Meetings. Regular meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson or as provided by rule of the Board. Special meetings shall be called by the Chairperson, or at the request of the Village Board.
- (2) Hearings. All meetings and hearings of the Zoning Board of Appeals shall be open to the public.
- (3) Rules of order. The Zoning Board of Appeals shall follow the rules and procedures for meetings as provided for herein and by the Zoning Board of Appeals bylaws.

F. Zoning Board of Appeals bylaws. The Zoning Board of Appeals shall prepare and adopt bylaws from time to time that address operating rules, public input procedures, and administrative procedures and standards. Such bylaws shall be adopted by resolution following a public hearing by the Zoning Board of Appeals and acceptance by resolution of the Village Board.

G. Record and decisions.

- (1) Record. The following shall constitute the record:
 - (a) The transcript of testimony, if any;
 - (b) The minutes of the Secretary;
 - (c) All applications, reports, requests, exhibits and papers filed in any proceeding before the Zoning Board of Appeals; and
 - (d) The decision of the Board.
- (2) Decisions. The Board may rely on the personal knowledge of its members, testimony at the public hearing, on its inspections of the property and on any reports available to it. Every decision of the Zoning Board of Appeals shall be by resolution and shall expressly set forth any limitations or conditions imposed or any relief approved, work or use authorized.
- (3) Final decision. Decisions of the Zoning Board of Appeals shall first present findings and conclusions at a meeting open to the public and shall state any special circumstances or conditions. Decisions shall be

final upon adoption of the minutes and/or resolution of the Board by a majority of the members and the filing of the minutes and/or resolution with the Office of the Village Clerk.

- (4) Failure to act.
 - (a) In any case where this chapter provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.
 - (b) Where no decision is made by the Zoning Board of Appeals and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.
- (5) Notification of decision. Within five business days following the final decision of the Zoning Board of Appeals, the Village Clerk shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Village Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.
- H. Conflicts. No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which he or she has an economic interest. Any conflict of interest prohibited by Article 18 of the General Municipal Law shall disqualify a member.
- I. Appeals. An appeal from any final decision of the Zoning Board of Appeals may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, Code Enforcement Officer or board of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.
- J. Jurisdiction and authority. The Zoning Board of Appeals shall have the following jurisdiction and authority:
 - (1) To hear and decide appeals from, and review orders, decisions or determinations made by, the Code Enforcement Officer.
 - (2) To approve or deny variances from the requirements of this chapter.
 - (3) To hear, review and finally decide applications for special use permit approval.
 - (4) To reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination appealed from, and the Board shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such code or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

§ 136-68 Code Enforcement Officer.

The Code Enforcement Officer shall have the following powers and duties:

- A. Submit an annual report to the Village Board listing all applications received, inspections made, referrals and action taken on each. Copies of this report shall be transmitted to the Zoning Board of

Appeals and Planning Board at the same time.

- B. Cause any plans, buildings or premises to be examined or inspected to determine compliance with the provisions of this chapter. In the fulfillment of these duties, he or she shall be authorized to enter any premises or building at a reasonable time and upon reasonable notice to determine whether or not the same is in violation of this chapter and may impose such reasonable conditions as may be deemed necessary to ensure compliance, including but not limited to the posting of securities.
- C. Provide the Zoning Board of Appeals, in writing, with all facts pertaining to the refusal to issue development permits and certificates when such information is requested by the Board; for denied development permits provide, in writing, the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
- D. For violations of this chapter:
 - (1) Notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it;
 - (2) Order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work or discontinuance of any illegal work being done; or
 - (3) Take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
- E. On the serving of the notice by the Code Enforcement Officer to the owner of any property in violation of any of the provisions of this chapter, the certificate of compliance for such building or use shall be held null and void. A new certificate of compliance shall be required for any further use of such building or premises.
- F. Issue appearance tickets pursuant to § 150.20 of the New York State Criminal Procedure Law.

Article X Review Procedures

§ 136-69 **General provisions.**

- A. Notice of public hearing. Each notice of hearing upon an application for site plan review, a special use permit, or for the review of a variance application upon an appeal to the Zoning Board of Appeals, or any other public hearing shall be published once in the official newspaper of the Village at least five days prior to the date of the hearing. In addition, at least 10 days prior to the date of the hearing, notices shall be mailed to all owners of property within 100 feet of the exterior boundary of the property for which the application is being made, as may be determined by the latest assessment records of the Village.
- B. Records to be retained. The original or a certified copy of all decisions, approvals, rulings and findings of any board under this chapter, and of all permits and certificates issued under this article, shall be promptly furnished by the Code Enforcement Officer to the Village Clerk and retained as a permanent Village public record.

- C. Assistance to boards. The Planning Board and Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. The Planning Board and Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefor by the Village Board.
- D. The Planning Board and Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part 1617 of the New York Codes, Rules and Regulations.
- E. The Village of Sylvan Beach, including the Planning Board and Zoning Board of Appeals, shall comply with the provisions of New York State General Municipal Law.

§ 136-70 **Permits.**

- A. Zoning permit required. No development may be commenced within the Village without a zoning permit issued by the Code Enforcement Officer.
- B. Permit types.
 - (1) Basic permit. All basic permit applications shall be subject to the site plan review provisions of § 136-76.
 - (2) Special use permits. All special use permit applications shall be subject to both the site plan review provisions and the special use permit provisions.
 - (3) Sign permit. All sign permit applications shall be subject to the sign regulations contained in Chapter **105**.
 - (4) Temporary use permit.
 - (5) Floodplain development permit: required for construction or development in areas of special flood hazard as specified in Chapter **51** of the Village Code.
 - (6) Home occupancy permit.
 - (7) Change of use.
- C. Posting of permit. All applicants shall display a building permit on the subject premises. The permit shall be provided by the Village, clearly visible from a public way, and shall not be removed until all of the requirements of this chapter shall be satisfied.
- D. Certificate of occupancy/compliance. No building may be occupied until a certificate of occupancy or certificate of compliance has been issued. The Code Enforcement Officer shall issue the certificate of occupancy upon a determination that all conditions of the zoning permit have been fulfilled.
- E. Temporary certificate of occupancy. If, upon an inspection for a certificate of occupancy, the Code

Enforcement Officer determines that a certificate of occupancy cannot be issued, and the Code Enforcement Officer, at his discretion, determines that such conditions do not affect the health, safety, and general welfare of the citizens of the Village, and finds that conditions for said certificate of occupancy can realistically be satisfied within 30 calendar days, the Code Enforcement Officer may issue a nonrenewable temporary certificate of occupancy to expire within 30 calendar days. At the end of this thirty-day period, if conditions for a final zoning compliance permit are not satisfied, the Code Enforcement Officer shall revoke the temporary certificate of occupancy and shall take appropriate steps pursuant to this chapter.

- F. Expiration of zoning permit. If a project for which a permit has been issued is not provided either a temporary or a final certificate of occupancy within one year after the issuance of such permit, said permit shall expire. The project may not be started or continued unless said permit has been renewed within the one-year period. If the permit is not renewed, the applicant must apply for a new permit in accordance with this chapter.

§ 136-71 Variances.

- A. Refer to § 7-712-b of New York State Village Law for area and use variance review procedures.
- B. Appeals. Applicants, or any officer, department, board or bureau of the Village, have the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this chapter to the Board of Appeals. The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the administrative official charged with the enforcement of this chapter, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

§ 136-72 Fees, costs and security.

- A. Permit application fees and expenses.
 - (1) Fees required by this chapter shall be paid upon the submission of applications and appeals.
 - (2) Expenses incurred by the Village shall be due upon receipt of an invoice from the Village Clerk.
 - (3) The Village Board shall establish the fees for applications and appeals, which are subject to updates by resolution. A fee schedule shall be posted in the Village Hall.
 - (4) No required fee shall be substituted for any other fee.
 - (5) The following actions shall require fees or reimbursement of expenses (this list is not necessarily all-inclusive):
 - (a) Building permit.
 - (b) Sign permit.
 - (c) Zoning variance application.
 - (d) Temporary sign permit.

- (e) Zoning interpretation.
 - (f) Expense of neighbor notification.
 - (g) Expense of notice publication.
 - (h) Expense of outside professional services.
 - (i) Banner permit.
 - (j) Campground permit and annual operating permit.
- B. Professional assistance. The Planning Board and Zoning Board of Appeals may engage the services of professional consultants, at the expense of the applicant, during the site plan review and special permit approval processes.
- C. Performance bond. In lieu of the completion of required improvements, the Planning Board, prior to its final approval, may require from the owner for the benefit of the Village a performance bond issued by either a bonding or surety company approved by the Village Board or by the owner with security acceptable to the Village Board in an amount sufficient to cover the full cost of said required improvements and their maintenance for a period of two years after completion as is estimated by the Village department designated by the Planning Board.

§ 136-73 Subdivision of land.

The Village shall comply with the provisions of New York State Village Law §§ 7-728 to 7-730, as amended, regarding subdivision of land.

§ 136-74 SEQRA.

The Village shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 1617, of the New York Codes, Rules and Regulations. Upon receipt of any complete application, the Village or any officer, department, board or bureau of the Village shall initiate the New York State environmental quality review process by issuing a determination of significance.

§ 136-75 Zoning text and map amendments (rezoning).

- A. Authority. This chapter and the Zoning District Map may be amended from time to time by the Village Board; provided, however, that no such amendment shall be enacted except in accordance with the procedures set out in this section.
- B. Purpose. The amendment process herein established is intended to provide a means for making changes in the text of this chapter and in the Zoning District Map that have more or less general significance or application. It is not intended to relieve particular hardships or to confer special privileges or rights but is intended as a tool to adjust the provisions of this chapter and the Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.
- C. Procedure.
- (1) Proposal by the Village. Amendments may be proposed by the Mayor, Village Board, the Planning Board or the Zoning Board of Appeals by transmitting such proposal, together with such supporting materials as may seem appropriate, to the Code Enforcement Officer for processing in accordance with

the provisions of this section.

(2) Action by Planning Board.

(a) Within 60 days following the receipt of the complete application, the Planning Board shall transmit its recommendation to the Village Board.

(b) The failure of the Planning Board to act within 60 days shall be deemed a recommendation for the approval of the proposed amendment as submitted.

(c) In making recommendations regarding amendments to the text of this chapter or to the Official Zoning Map, the Planning Board shall consider and make findings on the following matters regarding the proposed amendment:

[1] Consistency with the Village's Comprehensive Plan and any other adopted special area plans.

[2] Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

[3] Suitability of uses proposed by the zoning amendment for the property affected by the amendment.

[4] Availability of public services and infrastructure generally suitable and adequate for uses allowed within the proposed district.

[5] Is the zoning change for the general welfare or does it only benefit the individual owner(s)?

[6] Is the parcel(s) able to be reasonable developed for the use(s) permitted in the proposed district?

(d) The Planning Board may schedule an informational meeting with mailed notice to affected property owners.

(3) Public hearing. A public hearing shall be set, advertised and conducted by the Village Board in accordance with § 136-69.

(4) Action by Village Board.

(a) The Village Board shall either refuse the application or adopt the proposed amendment, with or without modifications.

(b) Within five business days of such action, the Village Clerk shall mail notice of the decision to all parties entitled thereto.

§ 136-76 Site plan review.

A. Purpose. The purpose of this section is to allow the proper integration of uses into the community based on their characteristics, or the special characteristics of the area in which they are to be located; to allow the Village to accommodate growth without creating an adverse effect on the Village and its citizens and taxpayers; to protect the health, safety and welfare of the citizens; and to promote consistency with the goals and objectives of the Village of Sylvan Beach Comprehensive Plan.

B. Applicability. This provision applies to the following:

- (1) Any sewer, water, building, floodplain, home occupancy or zoning permit for a parcel that has any nonconforming uses or structures.
- (2) Construction of any new dwelling unit(s), business or any structure or addition larger than 144 square feet.
- (3) Any change of use.
- (4) Any permit application that deviates from the Village design guidelines.
- (5) Substantial remodeling, renovation or modification.

C. Procedure.

- (1) Application shall be made to the Planning Board using forms supplied by the Village Clerk and delivered to the Code Enforcement Officer.
- (2) Prior to formal submission of a detailed site plan, applicants shall schedule a sketch plan conference.
- (3) The purpose of the sketch plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions and, generally, to determine the information to be required for the site plan. In order to accomplish these objectives, the applicant must provide the following:
 - (a) A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.
 - (b) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
 - (c) A topographic or contour map of adequate scale and detail to show site topography.
- (4) If the Planning Board determines that the information submitted for the sketch plan is sufficient, it may, at its discretion, conduct site plan review at the sketch plan meeting without requiring additional information or scheduling a separate site plan meeting.
- (5) If the Planning Board requests additional information after the sketch plan conference, a complete application shall be submitted to the Code Enforcement Officer.

D. General review criteria. The Planning Board shall require that all site plans comply with the following general review criteria:

- (1) The site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
- (2) The site is designed so as to be in harmony with the Comprehensive Plan for the community;
- (3) Parking and loading areas are adequate for the intended level of use, and arranged and screened so as to

minimize negative impacts on adjacent properties and the public road system.

- (4) Access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the public road system;
 - (5) The internal circulation of the site is arranged so as to provide safe access to parking and loading areas, provide adequate separation of pedestrian and vehicular movements, and to minimize impacts on the public road system;
 - (6) The site is suitably landscaped, and appropriately screened from adjacent properties and the public road at all seasons of the year so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and neighborhoods;
 - (7) Pedestrian ways are safe and adequate, and are properly integrated with the pedestrian ways of adjacent properties and the neighborhood;
 - (8) Any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
 - (9) Signs, site lighting, and the design, locations and dimensions of all buildings and structures are in keeping with the character of the neighborhood;
 - (10) Any changes to existing drainage patterns, or increased drainage due to development activity, have no negative impacts on adjacent property;
 - (11) Proposed water supply and sewage disposal facilities are safe and adequate;
 - (12) The proposed use is compatible with the geologic, hydrologic and soil conditions of the site and adjacent areas, and existing natural features are preserved to the extent possible;
 - (13) Development activity complies with all other standards and requirements of this chapter.
- E. Application content. The Planning Board may request that the applicant provide the information requested at the sketch plan conference and may further request all of the items from the site plan checklist available from the Village Clerk. The Planning Board is not limited to this list and may request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the type of use, its location, and the size and potential impact of the project.
- F. Environmental review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form EAF or a draft EIS, if required by SEQRA.

§ 136-77 Planning Board action on site plan application.

- A. Site inspections. The Planning Board, and any such persons as it may designate, may conduct such examinations, tests and other inspections of the site(s) which is the subject of such application as the Planning Board deems necessary and appropriate.
- B. Public hearing.
- (1) The Planning Board may hold a public hearing. Any such public hearing shall be held within 62 days

following the receipt by the Code Enforcement Officer of a complete application.

- (2) In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project.
- (3) Applicants may request a public hearing. When an applicant requests a public hearing, no site plan review project may be disapproved without such a hearing.
- (4) Notice. The Planning Board shall notice the public hearing by publication in the official newspaper at least five days prior to the date of the public hearing.
- (5) Professional assistance. The Village finds that the volunteer members may need professional assistance to make informed decisions. The Planning Board may engage the services of professional consultants during site plan review, at the expense of the applicant. The cost is separate and apart from any other fees or costs associated with SEQRA review.

C. If the applicant requires a special use permit, the Planning Board shall refer to § 136-78.

D. Planning Board decision.

- (1) The Planning Board shall render a decision within 62 days after a required public hearing or within 62 days after the receipt of a complete application where no public hearing was required.
- (2) The Planning Board shall approve, approve with modifications, or disapprove the application.
- (3) The Planning Board's review of the site plan shall include, but is not limited to, the following considerations:
 - (a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - (b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
 - (e) Adequacy of stormwater and drainage facilities.
 - (f) Adequacy of water supply and sewage disposal facilities.
 - (g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - (h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

- (4) The Planning Board may alter the dimensional requirements so that they are more restrictive than the minimums and maximums provided in the Dimensional Table.
- (5) No approval or approval with conditions shall be granted until the Planning Board determines that the applicant is in compliance with all other provisions of this chapter.

E. Filing of decision.

- (1) The Planning Board shall notify the applicant in writing of its decision.
- (2) The decision of the Planning Board shall immediately be filed in the office of the Village Clerk and a copy thereof mailed to the applicant.
- (3) The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant, or other similar appropriate means, to ensure that guidelines as to intensity of development as provided in this chapter shall be respected. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this chapter. In addition, the Planning Board may require that the Code Enforcement Officer incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.
- (4) Upon approval of the site plan and payment by the applicant of all fees and reimbursable expenses due to the Village, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant and the Code Enforcement Officer, and file same with the Village Clerk. Upon disapproval of a site plan, the Planning Board shall so inform the Zoning Officer, and the Zoning Officer shall deny a zoning permit to the applicant.

§ 136-78 **Special use permit review.**

- A. Intent. The intent of this section is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character. The primary purpose of special use permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Village.
- B. Special use permit procedure. All special use permit review and approval shall occur as a part of the site plan review. Applicants shall refer to § **136-76**, Site plan review, for the application process.
- C. The Zoning Board of Appeals shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Zoning Board of Appeals may require conditions on, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Zoning Board of Appeals must address the standards outlined below and include the facts and reasons upon which such denial was based:

- (1) Compatibility of the proposed use with the principles of the district, the purposes set forth in this chapter, and the goals of the Comprehensive Plan.
- (2) Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.
- (3) Adequacy of parking, vehicular circulation and infrastructure for the proposed use, and its accessibility to fire, police, and emergency vehicles.
- (4) The overall impact on the site and its surroundings, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
- (5) Restrictions and/or conditions on design of structures or operation of the use necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Village.
- (6) Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the commercial viability of the Village.
- (7) Compatibility with the historic character and use of the structure or structures and the historic character of the site and in the surrounding area.
- (8) Consistency with the requirements for site plan approval.

§ 136-79 **Planning Board action.**

- A. Site plan approval. Site plan approval is a required step in the consideration of all special use permit uses and shall be carried out either prior to or in conjunction with these special use permit procedures.
- B. Public hearing.
 - (1) In the event that the Planning Board resolves that significant public interest or input is expected, the Planning Board will schedule a public hearing within 62 days of the date of the meeting at which the application was considered complete for receipt by the Planning Board.
 - (2) The Village shall give public notice of such a hearing by causing publication of a notice of hearing in the official newspaper at least five days prior to the hearing date. Such notice of hearing shall be mailed directly to all landowners within 250 feet of the property line at least 10 days prior to the hearing date. The cost of the notification shall be billed to the applicant.
 - (3) After the conclusion of a public hearing for a special use permit, including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions the special use permit within 62 days.
- C. The conditions for granting a special use permit will contain any modification or conditions to the site plan that the Planning Board deems necessary to conform to the criteria established below.
- D. The decision of the Planning Board shall be filed in the office of the Clerk, and a copy thereof shall be mailed to the applicant.
- E. A conditional special use permit approval shall expire at the end of 180 days if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of up to 180 days.

§ 136-80 **Special use permit expiration, revocation and enforcement.**

- A. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.
- B. A special use permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit (unless other provisions are set forth by the Planning Board in connection with its approval) 18 months after approval.
- C. A special use permit will expire if the special use or uses shall cease for any reason for more than 24 consecutive months.
- D. A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.
- E. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- F. All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

§ 136-81 **(Reserved)**

Article XI
Exceptions and Enforcement

§ 136-82 **Height exceptions.**

- A. Nothing contained in this chapter shall limit or restrict the height of a church spire, belfry, clock tower, chimney flue or elevator bulkhead.
- B. A communications antenna support structure, being any freestanding or guyed accessory structure used to support an antenna for the receipt and/or transmission of electromagnetic signals, including the antenna itself, may extend to a maximum height of 50 feet above ground level, provided that, unless it is attached to the roof of the principal structure, it is located in a rear yard not less than 20 feet from any lot line, is of a design and construction specification to meet commercially acceptable standards of safety and has a smooth, unclimbable insulated surface to a height of 10 feet or is protected against trespass by a six-foot-high chain link fence and locked gate. The height of a communications antenna support structure may be further extended upon approval and permit of the Board of Appeals granted in accordance with the preceding conditions and § **136-76**, of this chapter.

§ 136-83 **Violations.**

- A. Any person or corporation, whether as owner, lessee, agent or employee, who or which shall violate any of the provisions of this chapter or who or which fails to comply with any order or regulation made hereunder; or who or which erects, alters, moves or uses any building or uses any land in violation of any detailed statement of plans submitted and approved under the provisions of this chapter shall be guilty of a violation.
- B. Any such person or corporation, whether as owner, lessee, agent or employee, who or which shall violate, disobey, omit, neglect, or refuse to act in compliance with any order or regulation shall be

deemed guilty of a separate offense for each day of such violation. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purpose of this section. The Code Enforcement Officer shall have the authority to issue a citation to property owners who are in violation of this chapter.

§ 136-84 Penalties for offenses.

A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350, or imprisonment for a period not to exceed three months, or both, for conviction of a first offense. Conviction of a second offense, both of which were committed within a period of five years, is punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both.

Conviction for a third or subsequent offense, all of which were committed within a period of five years, is punishable by a fine of not less than \$700 not more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week that a violation continues constitutes a separate offense.

§ 136-85 Restraint and reparation.

- A. In the event any building or structure is erected, constructed, reconstructed, altered, dismantled, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation or in threat of violation of this chapter or of any code or other regulation made under authority conferred thereby, or conditions imposed by a building permit, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, occupancy, moving, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such lot.
- B. Additional penalties. In addition to any other remedies or penalties that may be imposed, a violation of this article shall entitle the Village Board to remedy or repair the conditions constituting the violation, at the premises owner's expense, in order to bring the premises into conformity and compliance with this section. The disbursements and expenses shall become a charge and a lien upon the premises, and the same shall be added to the premises' next annual Village tax bill, to be collected in accordance with the provisions of law and the procedure for the payment of Village taxes with interest, as may be provided by law. This provision shall be in addition to any other provisions, penalties or powers available to the Village for enforcement of this chapter.

§ 136-86 Stop-work order.

- A. The Village Board hereby grants the Code Enforcement Officer the administrative responsibility of immediately terminating any actions violating this article by posting a stop-work order on the premises wherein the alleged violation has occurred.
- B. The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all actions specified on the stop-work order must be terminated immediately.
- C. Relief from the stop-work order can be realized as follows:
 - (1) If all provisions of this chapter, together with other conditions specified by the Code Enforcement Officer, are met, then the Village Board may authorize the termination of the stop-work order.

- (2) Except for cases involving site plan review, if a variance is granted by the Zoning Board of Appeals permitting the violations specified on the stop-work order to continue thenceforth as allowable, said administrative decision shall also specify the conditions for the termination of the stop-work order.

§ 136-87 Misrepresentation.

Any permit or approval granted under this chapter that is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Village under this chapter.

§ 136-88 Complaints of violations.

Whenever a violation of this chapter is alleged to have occurred, any person may file a complaint in regard thereto. All such complaints shall be filed with the Code Enforcement Officer, who may direct that such complaint be properly investigated and a report thereon be made to the Village Board.

§ 136-89 (Reserved)

Article XII Amendments

§ 136-90 Purpose.

The purpose of this article is to allow for amendment to this chapter whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure below.

§ 136-91 Referrals to other planning agencies.

When directed by the Village Board, the Village Clerk shall submit a copy of the proposed amendment to the Planning Board, and where required by § 239-m of the General Municipal Law, to the county planning agency having jurisdiction, for the report and recommendations by those bodies to the Village Board.

§ 136-92 Procedure for enactment.

The procedure as to notice of public hearing, public hearing on, and enactment of a proposed amendment shall follow and be governed by § 7-708 of the Village Law, and § 239-m of the General Municipal Law, including all subsequent amendments thereto.

§ 136-93 Records of amendments.

The Code Enforcement Officer and the Village Clerk shall each maintain records of amendments to the text of this chapter and of the Official Zoning Map and Park Plan Map.

§ 136-94 (Reserved)

Article XIII Definitions and Word Usage

§ 136-95 Word usage and interpretation.

Subject to the provisions of Article I hereof, in the interpretation of this chapter, the following rules shall apply:

- A. Words in the present tense include the future tense.
- B. Words in the singular include the plural and the plural the singular.
- C. The word "shall" is intended to be mandatory.
- D. The word "lot" shall include the word "plot" or "parcel."

- E. The word "person" shall include an individual, firm, partnership, association or corporation.
- F. A building or structure includes any part thereof.
- G. The word "and" indicates that all connected items, conditions, provisions or events shall apply.
- H. The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- I. The words "either...or" indicate that the connected items, conditions, provisions or events may apply singly but not in any combination.
- J. The word "Village" means the Village of Sylvan Beach, New York.
- K. The word "county" means the County of Oneida, New York.
- L. Any use of gender-specific words (his, hers, him, her) shall imply both genders.
- M. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

§ 136-96 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE

A building subordinate to and clearly incidental to the principal building on the same lot, and used for the purposes customarily incidental to those of the principal building. An accessory building shall not contain habitable space. For the purposes of this law, tractor-trailers, shipping containers, portable on-demand storage structures (PODs), and similar structures are not considered to be accessory structures.

ACCESSORY USE

Any use that is incidental to a permitted use and located on the same lot and under the same ownership.

ALLEY

A narrow service way or passage between properties or buildings.

AMUSEMENT DEVICE

Any mechanical contrivance used to provide games of chance, skill or pleasure, and where a fee is charged.

AMUSEMENT PARK

An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

AMUSEMENT RIDE

Any mechanical contrivance used to transport an occupant or occupants over a short defined distance or course for thrill or pleasure, and where a fee is charged.

ANTENNA

A device which transmits and/or receives radio frequencies, telecommunications signals or electromagnetic waves.

APARTMENT BUILDING

See "dwelling, apartment house."

ARCADE

See "indoor amusement facility."

AWNING

Any structure serving as a roof-like cover or shelter, attached to an exterior wall of any commercial establishment.

BAR

See "tavern."

BERTH

The place where a vessel lies when at anchor or at a wharf.

BED-AND-BREAKFAST

A home occupation in an existing one-family dwelling operated by the permanent resident(s) of the dwelling who are also on site and sleeping overnight within the residence while providing short-term overnight lodging to transient guests, and which offers an on-site breakfast meal served to such guests, but no other meals.

BLOCK

The aggregate of lots and alleys, circumscribed by streets.

BOAT LAUNCH

A place, site or structure to facilitate the ingress or egress of a watercraft into or onto a body of water.

BOAT STORAGE

A place, site or structure used to park or house a watercraft for 30 consecutive days or more.

BUILDING

See "structure."

BUILDING FOOTPRINT

A two-dimensional plan area of a building or structure which results when the height dimension is removed and which shows an aerial view of said building or structure, including garages, sheds, porches, eaves, covered breezeways, entryways and other similar attached appurtenances.

BUILDING HEIGHT

The vertical distance measured from the lowest point of the existing grade, prior to site disturbance, within five feet of any primary building footprint, to the uppermost portion of the structure.

BUILDING LINE

The point from which all yard requirements are measured and which is determined by a line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of a building on any side. In the case of a cantilevered section of a building, the vertical plane will coincide with the most projected surface.

CAMPGROUND

A single parcel of land which has been planned or improved for the placement of recreational vehicles and/or tents for transient use.

CANOPY

A permanent shelter, lit in whole or in part, which is constructed with a rigid frame that cannot be retracted, folded or collapsed and the primary function of which is to cover and protect users of the accessory uses and structures on a site.

COMMENCEMENT OF WORK

The construction or reconstruction or clearing, excavating, grading, filling, draining or conducting of physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or the moving of a structure upon a lot.

CRAFT WORKSHOP

A place where artists, artisans, craftsman and other skilled tradespeople produce custom-made art or craft products, including but not limited to baskets, cabinets, ceramics, clothing, flower arrangements, jewelry, metal work, musical instruments, paintings, pottery, sculpture, toys and weaving.

DAY-CARE CENTER

A facility which is not a dwelling unit in which care is provided on a regular basis to three or more people for more than three hours per day per person as defined in 18 NYCRR 418.

DAY-CARE HOME, FAMILY

A dwelling unit which is a personal residence and occupied as a family residence which provides day care on a regular basis for more than three hours a day to three people to six people, as defined in 18 NYCRR 417.

DEPARTMENT

The Department of Environmental Conservation of the State of New York.

DEVELOPMENT AREA OR SITE

Any parcel of property or lot or combination of contiguous lots which are in common ownership, or which are in diverse ownership where development is to occur in common. For the purposes of this chapter, contiguous lands shall include those separated by a public highway.

DOCKING FACILITIES, PERMANENT

A wharf or portion of a wharf extending along the shoreline and generally connected to the uplands throughout its length.

DOCKING FACILITIES, TEMPORARY

Any berthing or mooring space for boats, excluding the sale of gas, retail trade, boat service, marine equipment sales and service, boat and water-based recreation equipment rentals and overnight mooring.

DRIVE-THROUGH USE

An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.

DWELLING, APARTMENT HOUSE

A single building on a single parcel of land consisting of four or more dwelling units, excluding time-share dwellings.

DWELLING, MULTIFAMILY

A single building on a single parcel of land consisting of three dwelling units, excluding time-share dwellings.

DWELLING, SINGLE-FAMILY

A detached building (not including a mobile home) of one or more stories in height, above main grade level, which is designed or used exclusively as living quarters for one family or household, and having a contiguous masonry foundation which shall not be of pier-type supports, porches excepted.

DWELLING, TIME-SHARE

A recreation or vacation property where transient users visit for a specified period each year.

DWELLING, TOWNHOUSE

A one-family dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls.

DWELLING, TWO-FAMILY

A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household, which shall not be less than 500 square feet. There shall be a minimum of 60 square feet of habitable area, excluding kitchens, bathrooms and hallways, provided for sleeping accommodations for each person.

DWELLING, UPPER FLOOR RESIDENTIAL

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household, which shall be not be located on the ground floor of any building.

ESSENTIAL SERVICES

The construction, alteration or maintenance by public facilities or governmental agencies of gas, electrical, steam or water transmission or distribution systems.

FLOOR AREA, GROSS

The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, unenclosed and covered porches, courtyards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes, such as the outdoor sale of merchandise.

FOOTCANDLE

The amount of light that is produced by a candle at the distance of one foot. A footcandle is also the equivalent of one lumen per square foot.

FUNERAL HOME

A building used for the preparation and display of the deceased, and ceremonies connected therewith, before burial or cremation.

GARAGE PRIVATE

A building, accessory to dwellings, used exclusively for the parking or temporary storage of motor vehicles, boats and trailers.

GARAGE STORAGE

A main or accessory enclosed building with doors, other than a private garage, used for parking or temporary storage of motor vehicles, boats and trailers.

HABITABLE AREA

Area in a structure for living, sleeping, eating or cooking. Maintenance or utility space, parking garages and similar areas are not considered habitable space.

HEALTH CLUB

An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, saunas and showers, and lockers.

HEIGHT

See "building height."

HOME OCCUPATION

An occupation or profession carried on within a dwelling unit or an accessory structure that meets the dwelling unit setbacks, and which is clearly incidental to the use of the dwelling unit for residential purposes and does not change the character thereof. Home occupation uses include but are not limited to mail order businesses, brokerage businesses, attorneys, craft workshops and those professions licensed by the New York State Education Department, with the exception of pharmacists and pharmacy establishments.

HOTEL/MOTEL

A lodging facility offering accommodations to the general public, including buildings designed as tourist courts, overnight cabins, housekeeping units/cottages and similar facilities, and providing additional customary uses such as, but not limited to, restaurants, meeting rooms, playgrounds, game rooms, snack bars and recreational facilities or activities used primarily for patrons, including tennis courts, swimming or bathing, golf or convention facilities, excluding water-based motorized vehicles.

INDOOR AMUSEMENT FACILITY

An indoor area or structure, or portion thereof, open to the public that contains four or more coin-operated games and/or similar entertainment and amusement devices.

INN

A commercial facility, resembling in character traditional residential construction, providing lodging and meals which is characterized by common dining facilities and a common leisure room available for use by lodgers and the general public.

LIBRARY

A public institution with a building containing printed and pictorial material for public use for purposes of study and reference.

LOADING SPACE

An unobstructed, hard-surfaced area, no part of which is located in any street or public right-of-way and the principal use of which is for the standing, loading or unloading of trucks and trailers.

LOT

A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

LOT COVERAGE

The amount of a lot, stated in terms of percentage, which is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the edge of the roof or from the wall or foundation if there is no projecting portion of the roof.

LOT TYPES

- A. **CORNER LOT** - A parcel of land having lot lines at the junction of two or more streets or having lot lines on the same street forming an interior angle of intersection not more than 135°.
- B. **INTERIOR LOT** - A lot other than a corner lot.
- C. **THROUGH LOT** - An interior lot which has frontage on more than one street.

LOT WIDTH

The mean horizontal distance between the side lot lines measured at the building line.

MARINA

A waterfront facility offering two or more berths or moorings for boats not registered to the property owner, his family or renter of any dwelling unit, on the same lot and includes one or more of the following: the sale of marine products and services, including gas and oil, dry storage, repairs, new and used boat sales and services, boat rentals or charters, and other water-based recreational services.

MOBILE HOME

Any self-contained dwelling unit, not including travel-trailers, that is designed to be transported to its site on its own wheels or those of another vehicle, may contain the same water supply, kitchen facilities and plumbing, sewage disposal and electric system as immobile housing, and is designed to be used exclusively for residential purposes or any structure so marked as a "mobile home or structure" by New York State. (A modular home or other dwelling unit that is constructed in two or more main sections and transported to and permanently assembled on site is not considered a "mobile home.") The term "mobile home" shall not include any self-propelled recreational vehicle.

MOBILE HOME PARK

A parcel or parcels of land under single ownership, or continuous privately owned parcels, which are designed, improved or used for the accommodation of two or more mobile homes for a residential use.

MOORING

Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one point.

MOORING, PRIVATE or PRIVATE WHARF

A privately owned wharf or mooring which is not used for commercial purposes.

MUSEUM

Any building(s) or part thereof used primarily for the display of articles that are of either historical or cultural significance.

NIGHTCLUB

See "tavern."

NONCONFORMING LOT

A lot of record which does not comply with the area, shape, frontage, or locational provisions of this chapter for the district in which it is located.

NONCONFORMING STRUCTURE

A structure, including buildings, which does not satisfy the dimensional requirements of this chapter for the district in which it is located, but which was not in violation of applicable requirements when constructed.

NONCONFORMING USE

Any use lawfully existing prior to or at the time of adoption or amendment of this chapter or any preceding zoning law or code, which use is not permitted by or does not conform to the permitted use provisions of this chapter for the district in which it is located.

OPEN SPACE

That part of the lot area which is not occupied by buildings, structures, or off-street parking spaces or loading berths. Open space may include lawns, trees, shrubbery, garden areas and paved surfaces which are used as access drives but which are not used for vehicular parking of any kind.

OUTDOOR STORAGE

Storage of any materials, merchandise, stock, supplies, machines and the like that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises. "Outdoor storage" shall not include junk and salvage yards, auto wrecking yards or the like.

PARCEL

A lot designated with a tax map parcel ID number that is further identified by a metes and bounds description.

PARKING AREA

Any land consisting of one or two parking spaces accessory to a single-family semidetached, two-family or attached dwelling.

PARKING LOT

Any land area used or intended to be used for the temporary parking of three or more licensed vehicles or the portion of a vehicle sales operation utilized for the display of vehicles or customer parking.

PERSON

Any individual, firm, partnership, club, trust, company, association, cooperative, corporation (including a government corporation), or Village, state or federal government and any agency thereof.

PIER

A wharf or portion of a wharf extending from the shoreline with water on both sides.

PILE

A long slender column usually of timber, steel or reinforced concrete driven into the ground vertically to support an open-type wharf.

PLACE OF WORSHIP

A structure owned and/or used by a religious organization for worship, religious training, or education.

PLANNED RECREATIONAL DEVELOPMENT

Construction or conversion of an existing use to be planned, developed, operated, advertised and maintained as a single entity, containing one or more structures to accommodate a commercial

recreational facility. Said development may include commercial retail services, professional retail services, retail business general and retail business food which are incidental to the recreational use.

PRINCIPAL BUILDING

A building or structure in which is conducted the main or primary use of the lot on which said building or structure is located. Where more than one use is on a lot, the more intense use shall be considered the main or primary use.

PROFESSIONAL OFFICE

An office or place to conduct licensed activities normally associated with their field for those engaged in a professional occupation, including, but not limited to, a physician, lawyer, architect, engineer, surveyor, licensed beautician or barber, real estate broker, insurance agent, accountant or planner.

PROJECT

Any land use or development activity proposed by an applicant which is subject to this chapter.

PUBLIC BUILDING

Any building, structure, facility or complex used by the general public, owned by any state, county, or municipal government agency or instrumentality, including but not limited to municipal offices and public parking facilities.

RECREATIONAL VEHICLE

A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

RECREATION FACILITY, COMMERCIAL

A recreation facility operated as a business and open to the public for a fee.

RECREATION VEHICLE, WATER-BASED, MOTORIZED

Any kind or description of watercraft propelled by a motor or engine.

REDESIGN AND RENOVATION

Any activity which alters or expands a previously developed structure.

RESTAURANT, FAST-FOOD

An establishment whose principal business is the sale of preprepared or rapidly prepared food/meals directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

RESTAURANT, FULL-SERVICE

An establishment, excluding taverns, where food and drink are prepared, served and sold for on-premises consumption to patrons seated at tables.

RETAIL, GENERAL

Establishments providing goods, merchandise or services to the general public, for a fee, such as, but not limited to, banks, educational services, repair shops, dry cleaners, laundromats, supermarkets and food stores.

RETAIL SALES, OUTDOOR

The display and sale of products outside of a building or structure.

SCHOOL

Any building or part thereof which is designed, constructed and used for education or instruction in any branch of knowledge which includes public or private, elementary, secondary or vocational education.

SETBACK

The horizontal separation distance from the property line or, in the case of shoreline property, from the mean high water mark, to the building line of the structure.

SIGN

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which is located upon any land or on or in any building, in such manner as to attract attention from outside the premises. (Refer to Chapter **105**, Signs, for additional definitions pertaining to signs.)

SPECIAL USE PERMIT

An authorization of a particular land use which is permitted, subject to requirements imposed herein to assure that the proposed use is in harmony with this chapter and will not adversely affect the neighborhood if such requirements are met.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

A law adopted by the New York State Legislature as Article 8 of the Environmental Conservation Law and regulations adopted pursuant thereto. The purpose of SEQRA is to incorporate the consideration of environmental factors into planning, review and decision-making processes of state, regional and local government agencies. SEQRA requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement.

STORAGE STRUCTURE

See "accessory structure."

STORY

The portion of building between the surface of a floor and the next floor above or the ceilings next above under a roof.

STREAM

Includes any permanent or intermittent watercourse.

STREAM CORRIDOR

That area within 100 feet of the high water mark of any stream or river or wetlands adjacent thereto protected and/or regulated by the New York State Department of Environmental Conservation.

STREET

A public or private thoroughfare which affords the principal means of access to abutting property.

STREET LINE

The deeded right-of-way of any public street. Where no deed exists, the street line shall be determined as 1/2 of the right-of-way of the existing pavement or roadway.

STRUCTURE

A combination of materials to form an object constructed, installed, erected or permanently placed above or below the surface of the land or water.

SUBDIVISION

A division of any land into two or more lots, parcels or sites, whether the new lots are adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person, including the conveyance of lands in common ownership which are divided only by a road or utility right-of-way. Creation of a condominium or townhouse project shall be considered a subdivision. This definition shall not apply to conveyances of small parcels of land to correct a boundary of a lot, so long as such conveyance does not create additional lots.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

TAVERN

An establishment used primarily for the serving of liquor by the drink to the general public and where food may be served or sold only as accessory to the principal use and where entertainment may be provided.

TEMPORARY USE

A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction of alteration of any permanent structure.

THEATER

A building or part of a building devoted to showing motion pictures, or for dramatic musical or live performances, and which may include dinner theaters.

VARIANCE

A grant of relief from the requirements of this chapter which permits construction of a use in a manner that would otherwise be prohibited by this chapter.

VENDING MACHINE

A self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food or beverages in bulk or in packages.

VESSEL

Every description of watercraft, other than seaplanes, used or capable of being used as a means of transportation on or below the water surface.

VILLAGE

The Village of Sylvan Beach.

WATER-BASED ACTIVITIES

Includes, but is not limited to, tour boats, rental boats, personal watercraft, and parasailing.

WATER BODY

Any lake, pond, river, stream, intermittent stream or wetland.

WHARF

Any structure built or maintained for the purpose of providing a berthing place for vessels.

YARD

An open, unoccupied space on the same lot with a building or structure.

YARD, FRONT

An open, unoccupied space on the same lot with the principal building, between the front line of the principal building and the front line of the lot, and extending the full width of the lot.

YARD, REAR

An open, unoccupied space on the same lot with the principal building, between the rear line of the principal building and the rear line of the lot, and extending the full width of the lot.

YARD, SIDE

An open, unoccupied space on the same lot with the principal building situated between the side line of the lot and the adjacent side line of the lot, and extending from the rear line of the front yard to the front line of the rear yard.

[\[Image\]](#)