

ORDINANCE 2015 - 2118

**AN ORDINANCE AMENDING
TITLE 18, ENTITLED "ZONING",
OF THE WESTCHESTER MUNICIPAL CODE**

WHEREAS, the corporate authorities of the Village of Westchester submitted an application for certain text amendments to Title 18, entitled "Zoning", of the Westchester Municipal Code (the "Title"); and

WHEREAS, pursuant to proper legal notice, a public hearing was held before the Plan Commission on April 29, 2014, regarding said application; and

WHEREAS, during said public hearing, all persons desiring to be heard were afforded an opportunity to give testimony and make comments for the record regarding said application; and

WHEREAS, the Plan Commission, after considering all evidence and testimony, recommended approval of the text amendments described herein; and

WHEREAS, the Village President and Board of Trustees have considered the recommendation of the Plan Commission and have determined that it is in the best interest of the Village to amend the Title as set forth herein.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village Westchester, Cook County, Illinois, as follows:

Section 1. The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Chapter 18.04, entitled "General Provisions", of Title 18, entitled "Zoning", of the Westchester Municipal Code is hereby amended to insert therein:

18.04.070 – Non-conformities.

A. Non-conforming Structures- In General.

1. The purpose of this section is to provide for the regulations of non-conforming uses, buildings and structures, and to specify those circumstances and conditions under which those non-conforming buildings, structures and uses shall gradually be eliminated upon reaching the end of their respective normal useful life.
2. Nothing in this section is intended to prevent the strengthening or restoration of a legal nonconforming building or structure to a safe condition for purposes of the public health and safety.
3. The burden of establishing the existence of a legal non-conforming use, building, or structure is upon the property owner and not upon the Village.

B. Non-conforming Structures (As to Bulk) -In General.

1. Damage or destruction to non-conforming structures. Except as provided in herein, no structure which has been damaged or destroyed by any means not within the control of the owner, to the extent of more than seventy-five percent (75%) of the cost of replacement of such building or structure, shall be restored except in conformity with the regulations of this Title. The market value shall be based upon the cost to replace the structure and shall not include the value of the underlying land. In no event shall any damage or destruction to such a legal non-conforming building or structure by means within the control of the owner be repaired or restored except in accordance with the current rules and regulations of this Title.
2. Maintenance or modifications. Any lawful non-conforming structure which is non-conforming because it fails to comply with bulk provisions of this Title may be maintained, reconstructed, structurally altered, enlarged or extended provided that the amount, quantity or degree of such nonconformity is not increased, and provided that any new construction conforms to the requirements of the zoning district in which it is located.
3. Moving. A legal non-conforming building or structure shall not 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 building or structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

C. Non-conforming uses -Expansion, Change or Discontinuance.

1. Any lawfully non-conforming use of part or all of a building or structure, or any lawfully existing non-conforming use of land involving a building or structure accessory to such use of land, may be continued, so long as it remains otherwise lawful, subject to the provisions of 18.04.070 C (2)-(6) The existence of a non-conforming use on part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.
2. A non-conforming use shall not be expanded or extended into any other portion of the structure which was not occupied by the non-conforming use at the time of the adoption of this Title, or any amendment hereto. The non-conforming use of land which does not involve a structure or which is accessory to the non-conforming use of a structure shall not be expanded or extended beyond the area it occupies at the time of the adoption of this Title or any amendment hereto.
3. Except when required to do so to meet building codes of the Village of Westchester or any other applicable laws and regulations no existing structure, or portion thereof, which

includes a non-conforming use shall be enlarged, extended, reconstructed, or structurally altered, unless such use is changed to one permitted in the district in which such building or premises is located.

4. If a lawful non-conforming use is discontinued for a continuous period of eighteen (18) months, it shall not be renewed, and any subsequent use of the structure or parcel of land shall conform to the use regulations of the zoning district in which such structure or parcel of land is located.
5. The use or holding for use by a public utility under the jurisdiction of the Illinois Commerce Commission of any premises prior to July 1, 1967, for electric transmission lines supported by towers or for an electrical substation shall be considered a lawful Special Use for such purposes, without any restrictions against enlargement, extension, reconstruction or structural alteration of said facilities that may be located on said premises on or after July 1, 1967.

Section 3. Chapter 18.04, entitled "General Provisions", of Title 18, entitled "Zoning", of the Westchester Municipal Code is hereby amended to insert therein:

18.04.080 – Definitions:

For the purpose of this Title certain terms are hereby defined. Words used in the present tense shall include the future. The singular number shall include the plural. The word "shall" is mandatory and not permissive. The words "used" or "occupied" include the words "intended", "designed" or "arranged" to be used or occupied. The word "lot" includes the words "plot" or "parcel". The word "person" includes a "firm," "association," "organization," "partnership," "trust," "company," or "corporation" as well as an "individual." All measured distances shall be expressed in feet and fractions thereof. Any word not herein defined shall have the meaning set forth in the in the latest editions of Webster's New International Dictionary or Black's Law Dictionary.

ABUTTING. To have a common property line or district line.

ACCESSORY BUILDING, STRUCTURE, OR USE. A building, structure or use which:

1. Is subordinate, incidental to and serves a principal building, structure or use;
2. Is subordinate in area, extent or purpose to the principal building, structure or use served;
3. Contributes to the comfort, convenience or necessity of occupants of the principal building, structure or use served; and
4. Is located on the same lot as the principal building, structure, or use served, except to the extent that accessory off-street parking facilities may be permitted subject to the regulations of this Title to locate elsewhere than on the same lot with the principal building, structure or use served.

ADJACENT. Lying near another property, having a common endpoint or border

AMUSEMENT PARK. Facilities offering four or more distinctly different outdoor recreational activities for use by the public.

ALLEY. A public or private right-of-way, other than a street, that normally affords secondary means of access to abutting properties.

APARTMENT. See Dwelling unit.

AUTOMOBILE LAUNDRY. A building or any portion thereof, which either:

1. Contains facilities for washing of one or more automobiles primarily by means of steam cleaning, or high pressure water devices, or other mechanical devices.
2. Provides space, water, equipment or soap for the complete or partial hand washing of more than two (2) automobiles at any one time, whether by operator or customer.

AUTOMOBILE PARTS STORE. An establishment selling automotive parts at wholesale or retail, but excluding the repair of automobiles on the premises.

AUTOMOBILE REPAIR, MAJOR. The replacement and rebuilding of engines, transmissions, differentials, frames and bodies of motor vehicles.

AUTOMOBILE REPAIR, MINOR. Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE SALES and SERVICE. A retail establishment that sells, leases, or rents new or used automobiles, trucks, vans, recreational vehicles, trailers, boats, motorcycles, or other similar motorized transportation vehicles. An automobile dealership may maintain an inventory of the vehicles for sale or lease on site. Accessory uses may also exist upon the same site such as maintenance, repair, service areas, indoor parts storage areas, and financial services areas.

AUTOMOBILE SERVICE STATION Any building or portion thereof, or any premises, used for dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries or minor automobile accessories. Services offered by an automobile service station may include the installation of tires, batteries, and minor accessories; minor automobile repairs; and greasing or hand washing of not more than 2 automobiles at any one time, but not by means of steam cleaning, high pressure water devices, or other mechanical devices.

AUTOMOBILE WRECKING. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts.

AWNING. A roof-like projection, rigid or retractable in operation, which projects from the wall of a building.

BASEMENT. The story of a building having more than one-half (1/2) of its floor to ceiling height below grade. A basement shall not be considered a story for the purpose of height regulation.

BERM, EARTH. A landscaped mound of earth.

BLOCK. A tract of land bounded by streets, or by a combination of streets, railroad rights-of-way, public parks, permanent open space, and/or other lines of demarcation.

BUILDABLE AREA. That portion of a lot which meets at least the minimum yard requirements and setback lines of the district within which it is located.

BUILDING. A structure that is permanently affixed to the land, has one or more floors and a roof, separated on all sides from adjacent open space by walls, and is designed or intended for use as a living quarters, shelter, business or storage.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finished grade along the front of the building to the mean point between the eave and the peak of the building. Equipment, penthouses, air conditioning or heating systems, whether solar or otherwise, shall be included in computing the height of the building.

BUILDING LINE. The line nearest the front lot line, running approximately parallel to the front lot line across the width of a lot at the point of the required front yard depth.

BUILDING, PRINCIPAL A non-accessory building in which the primary use of the lot on which it is located is conducted.

BUILDING, TEMPORARY. A building not designed or intended to be permanently located on the parcel of property where it is constructed or erected.

BULK. The term used to indicate the size, location and number of structures, including:

1. Size and height of structures;
2. Location of exterior walls;
3. Floor Area Ratio;
4. Open space allocated to structures;
5. Yard requirements;
6. Lot area; and
7. Lot width.

CANOPY. A permanent structure that is an overhanging shelter consisting of a roof and vertical ground mounted supports.

CARPOR. A roofed automobile shelter with two or more open sides.

CATERING ESTABLISHMENT. A business whose primary purpose is to prepare food for consumption at another location.

CLINIC, MEDICAL OR DENTAL. A building, structure or portion thereof in which patients who are not lodged overnight are admitted for examination and treatment by one or more medical or dental practitioners.

COLLEGE (UNIVERSITY). An institution of higher education accredited by a regional organization or authorized by the state to issue baccalaureate, graduate, and/or professional-level degrees.

CONFORMING STRUCTURE. Any structure which:

1. Complies with all the regulations of this Title governing the district in which said structure is located, or
2. Is designed or intended for a permitted use or Special Use, as allowed in this Title in the district in which it is located.

CUL-DE-SAC. A minor street which has one (1) open end permanently terminated at the other by a vehicular turnaround.

DAY CARE CENTER. Any child care facility which regularly provides day care for less than twenty four (24) hours per day for more than eight (8) children in a family home, or more than

three (3) Children in a facility other than a family home, as defined and regulated in the Child Care Act of 1969 (ILCS Ch. 225, Act 10, §§ 1 et seq.)

DAY CARE HOME. A family home which receives more than three (3) and up to a maximum of twelve children for less than twenty-four (24) hours per day, including the family's natural or adopted children and all other persons under the age of twelve (12) in the home, as defined and regulated in the Child Care Act of 1969 (ILCS Ch. 225, Act 10, §§ 1 et seq.)

DECK. A wood or wood-like structure attached to or closely adjacent to any dwelling unit that has no permanent or temporary cover or canopy, which is designed and intended for the support of persons, and is constructed on piers without continuous foundation or footings, and has no part extending above the floor level of the first story of such dwelling, excluding the basement.

DRIVE-THROUGH (DRIVE-THROUGH ESTABLISHMENT). A structure or part thereof in which facilities are provided primarily for serving patrons parked or driving in automobiles on or through the premises.

DRIVEWAY. A private road which provides access to a lot, or to a use located on such lot, from a public way.

DWELLING. Any building or portion thereof which is designed and used exclusively for residential purposes, not including a hotel, nursing home, or mobile home.

DWELLING, DETACHED. A dwelling unit which does not share a common wall with any other dwelling and is surrounded on all sides by open space located on the same lot.

DWELLING, MULTIPLE-FAMILY. A building containing three or more dwelling units, with more than one of such dwelling units connecting to a common corridor or entranceway.

DWELLING UNIT. One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family, with cooking, living, sanitary and sleeping facilities.

EASEMENT. Land which has been designated by lawful agreement between the owners of land and another person or persons for a specified use only by such person or persons without passing the fee title to the person or persons using such land.

FAMILY. One or more persons related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization. A family as herein defined may also include not more than three persons who are not related by blood, marriage, or adoption occupying a dwelling unit as an individual housekeeping organization but not including sororities, fraternities or other similar organizations

FENCE. A structure used to provide a barrier, or a means of confinement as regulated herein

FITNESS FACILITY. An establishment that offers recreational instructions in performing arts, martial arts, wellness, fitness and other similar uses.

FLOOR AREA. The square feet of floor space within the outside line of walls including the total of all space on all floors of a building. It does not include porches, garages or space in a basement or cellar when said basement or cellar space is used for storage or incidental uses. Any space devoted to off-street parking or loading shall not be included in the floor area.

FLOOR AREA RATIO (FAR). Computed by the floor area of a building or buildings on a zoning lot divided by the area of such zoning lot, or in the case of a Planned Unit Development,

the floor area divided by the net site area. The floor area ratio calculation shall not include any space devoted to parking garages in commercial zoning districts.

FOOT CANDLE. A unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle power and is equal to one lumen per square foot.

FRONTAGE. All of the property fronting on one side of a street between two intersecting streets, or in the case of a dead end street, all of the property along one side of the street between an intersecting street and the end of such dead end street.

GARAGE, PRIVATE. An accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing private passenger vehicles of the family or families resident upon the premises.

GARAGE, PUBLIC. See **PARKING STRUCTURE.**

GRADE. The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GYM. See **Fitness Facility.**

HOSPITAL. An institution which maintains and operates facilities for the medical diagnosis, treatment, care, or surgical care of persons suffering from illness, disease, injury, deformity, or other abnormal condition and which permits overnight lodging for patients.

HOTEL. A building, structure or portion thereof which is used as a temporary abiding place, for compensation, with or without meals, containing five (5) or more guestrooms or suites where no provision for cooking is made in any individual guestroom or suite, and which provides maid, butler and linen service and which maintains a hotel register.

JUNKYARD. A lot, with or without accessory structures, used to abandon, store, keep, collect, buy, sell, exchange, bale, pack, disassemble, or handle scrap or discarded materials from inoperable vehicles, machinery, and equipment, or parts thereof, and other metals, paper, rags, rubber tires and bottles.

LANDSCAPED AREA. An area that is permanently devoted and maintained for the growing of shrubbery, grass and other plant material; retention or detention ponds; fences; timbers; and bricks and stones that is not used for pedestrian or vehicular access.

LANDSCAPE WALL. A structure designed for landscape purposes, including minor grade changes, that does not affect a building or buildings above or below the wall or maintain an engineered retention pond or detention area.

LIQUOR STORE, PACKAGED. A business establishment where alcoholic liquors are kept and sold, but where such alcoholic liquors may not be lawfully consumed on the premises.

LOADING BERTH. A space within the principal building or on the same lot as the principal building that provides for the standing, loading or unloading of trucks.

LODGING ROOM. A room or suite of rooms rented as sleeping and living quarters, without cooking facilities. In a suite of rooms, each room that provides sleeping accommodations shall be counted as one lodging room for the purposes of this Title.

LOT. A parcel of land or contiguous parcels of land which are part of a real estate subdivision, the plat of which has been recorded in the Office of the Recorder of Deeds of Cook County,

Illinois, pursuant to state law, or for which an assessment plat describing the parcel by a metes and bounds description has been recorded in the Office of the Recorder of Deeds of Cook County, Illinois, pursuant to state law, which is occupied or intended for occupancy by a use permitted in this Title, and which has its principal frontage upon a road or street.

LOT LINES. The property lines bounding a lot.

LOT LINE (ABUTTING A STREET). The front lot line, or the side lot line of a corner lot which abuts a street, or the rear lot line of a through lot.

LOT LINE, FRONT. The boundary of a lot abutting a street. Corner lots and through lots may have more than one (1) front lot line. In the case of a corner lot, the narrowest of the front yards shall be the required front yard. In the case of a through lot, the yard through which access is taken shall be the required front yard.

LOT LINE, INTERIOR. A lot line which does not abut a street.

LOT LINE, REAR. An interior lot line which is most distant from and is parallel or almost parallel to the front lot line, and, in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot, which is parallel to and at a maximum distance from the front lot line. In the case of a corner lot, a line parallel to and opposite of the narrower lot line fronting on a street.

LOT LINE, SIDE. An interior lot line which is not a front lot line or a rear lot line

LOT OF RECORD. A single lot which is part of a subdivision, the plat of which has been recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

LOT WIDTH. The width of a lot as measured at the building line. The appropriate width is established for each zoning district in which the lot is located.

LOT AREA. The square footage of land within the perimeter of the lot lines.

LOT, CORNER. A lot situated at the junction of and abutting on two (2) or more intersecting right-of-ways, or streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines. For purposes of determining lot depth on a corner lot, the depth shall be measured between the narrower of the street frontages and the most distant opposite lot line.

LOT, INTERIOR. A lot other than a corner lot or a through lot.

LOT, THROUGH. A lot having frontage on two non-intersecting streets, as distinguished from a corner lot.

MOBILE HOME. A moveable or portable unit, designed and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be connected to utilities for year-round occupancy and to provide for complete independent living facilities, including provisions for cooking, sleeping and sanitation. Such a unit shall not be deemed to be a dwelling for purposes of this Title.

MOTEL. An establishment consisting of a group of attached or detached living or sleeping accommodations, with bathroom and closet space, located on a single zoning lot and designed for use by travelers.

NON-CONFORMING BUILDINGS OR STRUCTURES, LEGAL. A building or structure or portion thereof which was lawful when established but which is not in conformance with the provisions of this Title. Such a building or structure may have been rendered non-conforming as a result of annexation or by the adoption of an amendment or amendments to this Title. A legal non-conforming building or structure shall remain until such time as it is made conforming or is terminated as provided for in this Title.

NON-CONFORMING USE, LEGAL. The use of land or a building or a portion thereof, which was lawful when established but which no longer conforms with the use regulations of the district in which it is located. Such a use may have been rendered non-conforming as a result of annexation or by the adoption of an amendment or amendments to this Title. A legal non-conforming use shall remain until such time as it is made conforming or is terminated as provided for in this Title.

NURSING HOME. A facility for the care and occupancy by aged, chronically ill, infirmed, or incurable persons, or a place of rest for persons suffering bodily disorders, in which three or more persons not members of a family residing on the premises are received and provided with food, shelter, and care, but not including hospitals or clinics.

OBSTRUCTIONS. Any building or structure or parts thereof, which is located so as to come in the way of any open area required by this Title. Trees or shrubs planted in accordance with this Title shall not be considered an obstruction

OFFICE. A building or portion of a building wherein predominantly administrative, business, or professional services are offered or performed or business is conducted.

OPEN SPACE. Parks, playgrounds, parkway medians, landscaped green space, or similar open areas that are used for agriculture or outdoor recreational uses, but not including public right-of-way, private driveways or roadways, or parking facilities.

PARCEL. A lot, or contiguous group of lots in single ownership or under single control which are usually considered a unit for purposes of development.

PARK. An area that is open to the general public and is reserved for recreational, educational, or scenic purposes.

PARKING SPACE. A designated area, enclosed or unenclosed, that is used to store one automobile, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of such an automobile.

PARKING STRUCTURE (DECK) (GARAGE). An accessory structure used for the parking or storage of motor vehicles in conjunction with multiple-family, office, or commercial uses.

PARKING STRUCTURE, DECK, GARAGE, PUBLIC. A structure, other than an accessory structure used for the parking or storage of motor vehicles for compensation.

PATIO. See Terrace.

PERSONAL SERVICES. Establishments primarily engaged in providing services involving the care of a person or his or her apparel. These services can include but are not limited to: laundry, cleaning and garment services, garment pressing, linen supply, coin-operated laundries, dry-cleaning, carpet and upholstery cleaning, beauty shops, barber shops, shoe repair, funeral services, and health clubs.

PLANNING COMMISSION. The Planning Commission of the Village of Westchester.

PORCH: A one-story roofed structure attached to the house with no floor space above the porch. Such structure shall be open to the elements or screened on at least one (1) side.

PUBLIC UTILITY. Any person, firm or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water, or sewage systems to the public under public regulation.

RETAINING WALL. A structure built to fortify an elevation or an embankment that accommodates a change in grade that may structurally affect a building or buildings above or below the structure, or permanently maintain an engineered retention pond or detention area.

RESTAURANT. Any public place kept, used, maintained, advertised or offered to the public as a place where the primary business is the service of meals, and where meals are actually and regularly served. Such space shall have an adequate and sanitary kitchen, dining room, and equipment. The restaurant will employ a sufficient number and kind of employees to prepare, cook, and serve suitable food for the appropriate capacity of patrons. No premises which charges any kind of entrance fee or requires a minimum amount to be spent solely for the purchase of alcoholic liquor or other beverages, and no premises that provides sleeping accommodations, shall be deemed to be a restaurant hereunder.

SANITARIUM. An institution which maintains and operates facilities for the diagnosis, treatment, medical care, or surgical care of persons suffering from illness, disease, injury, deformity, or other abnormal condition, and which permits overnight lodging for patients.

SCHOOL, PRIMARY OR SECONDARY. An elementary school, middle school, junior high school, or senior high school, either public or private, which offers systematic academic instruction in any branch or branches of knowledge. Primary and secondary schools do not include training studios, trade or vocational schools or student learning centers.

SCHOOL, TRADE OR VOCATIONAL. A school which offers career based instruction in skilled subjects such as: computer repair, network development, graphic design, multimedia, arts, shorthand, carpentry, drafting, and automobile mechanics as part of a certificate or degree program.

SETBACK. The required minimum distance a building or structure, or other improvement on a lot, must be located from a lot line. A setback extends along a lot line for a depth specified by the zoning district in which such lot is located.

SHOPPING CENTER. An integrated group of predominantly retail oriented establishments located on a parcel of land which is not less than two acres. The center shall be planned, developed, owned, or managed as a unit, and is within a building or buildings with common parking facilities.

SPECIAL USE. See Use, Special below.

STOOP: A porch, platform, entrance stairway, or small veranda at a house door.

STORY. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it, including a story which has more than three-quarters of its height above grade.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is finished off for use, and a story in which more than one-half but not more than three-quarters of its height is above grade.

STREET, PRIVATE. A permanent undedicated street (privately owned and maintained) and intended as primary means of vehicular access to two (2) or more residences.

STREET, PUBLIC. A permanent public right-of-way which affords a primary means of vehicular access to abutting property.

STRUCTURE. Anything constructed or erected for which the use requires a more or less permanent or temporary location on or in the ground; or an attachment to something having a permanent or temporary location on or in the ground; including but not limited to: buildings, signs, decks, fences, patios, swimming pools, pavements, driveways and walkways. Readily removable decorative landscape borders or features, including but not limited to: bricks, stones, timbers, flower boxes, and other similar features shall not be considered structures. Fences shall not be considered structures for purposes of calculating the maximum permitted coverage of a lot.

SWIMMING POOL, PRIVATE. Any pool, used or capable of being used for swimming or bathing (including drained pools), twenty-four (24) inches or more in depth, which is used, or intended to be used, in connection with residences and available only to the families occupying such residences and their guests.

SWIMMING POOL, PUBLIC. Any pool, used or capable of being used for swimming or bathing (including drained pools), twenty-four (24) inches or more in depth, which is used, or intended to be used, by the general public.

TAVERN (BAR). An establishment where the sale and consumption of alcoholic beverages on the premises by patrons is its principal purpose. Food may be served and consumed at such an establishment, but is considered accessory to the principal use.

TERRACE. A level, landscaped and/or masonry area consisting of concrete, paver bricks, or inlaid stone, directly adjacent to a principal building, not covered with a roof, and located at or within three feet of the finished grade.

TRAILER. A vehicle without motive power designed for the carrying, hauling, or transporting of persons or property, which is constructed and designed to be towed by a motor vehicle.

TRUCK. Every motor vehicle designed, used or maintained primarily for the transportation of property.

USE [LAND]. See below.

USE, PERMITTED. A use which is or may be lawfully established in a particular district provided that it conforms with all requirements, regulations, and standards of this Title for the district in which such use is located.

USE, SPECIAL. A use that has unusual operational, physical, or other characteristics that may be different from those of the predominant permitted uses in a district, but which is a use that compliments permitted uses and is otherwise, or can be made, compatible with the intended overall development within a district. Compliance with special standards not necessarily

applicable to other permitted uses or Special Uses in the district may be required for a Special Use, as established in this Title, or by the Village Board or the Planning Commission or the Zoning Board of Appeals.

VARIATION. A waiver of the terms of the zoning regulations where, due to conditions peculiar to the property, a literal enforcement of the regulations would result in unnecessary and undue hardship.

VEHICLE, COMMERCIAL. Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise. This does not include a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially.

VEHICLE, MOTOR. Every vehicle which is self-propelled, except vehicles moved solely by human power and motorized wheelchairs.

WAREHOUSE. A building or structure or part thereof, used principally for the storage of goods and merchandise

YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise permitted by this Code.

YARD, FRONT. The yard between a principal building and the front lot line. In the case of a corner lot or any other lot that fronts on more than one street, yards extending along all streets are front yards; In any case, where a building line requirement has been established which is different from the front yard requirements, the stricter of the two requirements shall control.

YARD, REQUIRED FRONT. The yard extending across the front of the lot, which is bounded by the building line, side lot lines and the front lot line. In any case, where a building line requirement has been established, which is different from the front yard requirements, the stricter of the two requirements shall control.

YARD, REAR. A yard extending across the rear of a lot, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, REQUIRED REAR. A yard which extends across the rear of the lot and is bounded by side lot lines, rear lot line, and the rear yard line. In the case of a corner lot, the yard bounded by the lot line and yard line parallel to and opposite of the most narrow lot line fronting on a street.

YARD, SIDE. A yard between the main building and the side lot line, extending from the front yard line to the rear yard line.

YARD, REQUIRED SIDE. A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

YARD, CORNER SIDE. A yard extending along a side lot line adjoining a street between the front and rear yards to a width specified in the yard requirements for the zoning district.

ZONING ADMINISTRATOR. An appointed individual who is authorized and responsible to administer and enforce the provisions of this Title. The Zoning Administrator shall make such

determinations, interpretations, and orders as are necessary, and may require such plats, plans, and other descriptive material in connection with applications for permits as are to judge compliance with this Title.

ZONING BOARD OF APPEALS. The Zoning Board of Appeals for the Village of Westchester.

ZONING DISTRICT. An area which is a divided portion of the Village, as designated on the Village's Zoning Map, where certain uniform regulations and requirements apply to uses and development in accordance with the provisions of this Title.

ZONING MAP. The official Zoning District Map of The Village of Westchester.

Section 4. Section 18.12.010, entitled “Permitted Uses”, of Chapter 18.12, entitled “R1 One Family Residence District”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is amended to insert:

“Accessory buildings, structures and uses as enumerated in Section 18.12.060 of this chapter.”

Section 5. Section 18.12.030, entitled “Heights and Setbacks”, of Chapter 18.12, entitled “R1 One Family Residence District”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting the same in its entirety and inserting therefor the following:

- A.** Height: Residential buildings shall not exceed two stories in height, not counting basement. Maximum height for residential principal buildings shall be thirty-five (35) feet.
- B.** Front Yard Setback: Twenty-five feet (25), minimum
- C.** Side Yard Setback: Ten percent (10%) of the lot width
- D.** Corner Side Yard Setback: Twenty-five feet (25), minimum
- E.** Rear Yard Setback: Twenty percent (20%) of the lot depth or a rear yard depth of not less than twenty-five feet, whichever is smaller.

Section 6. Section 18.12.040, entitled “Lot Coverage”, of Chapter 18.12, entitled “R1 One Family Residence District”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting the same in its entirety and inserting therefor the following:

- A. *Building Coverage:*** The maximum coverage of a lot by a principal building, accessory building(s) and accessory structure(s), shall not exceed forty percent (40%) of the total lot area.

B. Impervious Surface Coverage:

1. The maximum coverage of a lot by a principal building, accessory building(s) and accessory structure(s) INCLUDING paved areas such as driveways, patios and sidewalks, shall not exceed fifty percent (50%) of the total lot area. All areas not covered by impervious materials shall be improved with landscaping consisting of grass and other living material.
2. Permeable Pavement: Lot coverage in excess of fifty percent (50%), but not greater than sixty percent (60%) shall be permitted if permeable pavement is utilized for any area in excess of fifty percent (50%) lot coverage. The permeable pavement shall be installed and maintained per manufacturer's specifications.
3. If a property exceeds the fifty percent (50%) impervious surface lot coverage requirements and it was permitted by the Village, the owner may remove and replace the impervious cover as is.

Section 7. Chapter 18.12, entitled "R1 One Family Residence District", of Title 18, entitled "Zoning", of the Westchester Municipal Code is amended to insert:

18.12.060 – Accessory Buildings, Structures and Uses.

- (a) *Residential Garages:* In residential districts the following regulations shall govern garages and carports:
- 1) An accessory building may be established at the same time as a principal building, or after, but shall not be established prior to the construction of the principal building.
 - 2) Each zoning lot shall have only one (1) garage, regardless of whether detached or attached.
 - 3) A garage shall not be capable of storing in excess of three (3) vehicles. In no event shall any attached or detached garage exceed a maximum of six hundred sixty (660) square feet exterior dimension.
 - 4) For detached garages, the height shall not exceed one (1) story or the height of the principal building on the lot, whichever is less, but in no case shall the height of the garage exceed fifteen (15) feet as measured from the grade to the peak of the roof.
 - 5) Garage area must not exceed seventy-five (75) percent of the foundation area of the principal building. However, a minimum garage size of five hundred thirty (530) square feet exterior dimension shall be permitted regardless of the size of the principal structure.
 - 6) Setbacks for Detached Garages:
 - a. From principal building: fifteen (15) feet minimum
 - b. Front Yard: No garage shall be located in the front yard.
 - c. Side Yard Setback: three (3) feet from the foundation to any side yard minimum, nor shall a garage be located within any public utility easement, whether platted or implied;

- d. Corner Side Yard Setback: five (5) feet from the foundation to any corner side yard minimum, nor shall a garage be located within any public utility easement, whether platted or implied;
- e. Rear Yard Setback: three (3) feet from the foundation to any rear yard minimum, nor shall a garage be located within any public utility easement, whether platted or implied;
- 7) The area of any garage, carports and any other accessory structures shall be added to the building area of the principal structure for purposes of determining the maximum lot coverage.
- 8) Carports: Carports shall be located on a residential property according to the same rules and regulations applicable to an attached garage.

(b) Sheds:

- 1) No more than one (1) shed is allowed per zoning lot.
- 2) Setbacks
 - a. Sheds may not be located in any front yard.
 - b. From principal building or detached garage: ten (10) feet minimum,
 - c. Side Yard Setback: three (3) feet from the foundation to any side yard minimum, nor shall a shed be located within any public utility easement, whether platted or implied;
 - d. Corner Side Yard Setback: five (5) feet from the foundation to any corner side yard minimum, nor shall a shed be located within any public utility easement, whether platted or implied;
 - e. Rear Yard Setback: three (3) feet from the foundation to any rear yard minimum, nor shall a shed be located within any public utility easement, whether platted or implied.
- 3) Area: Maximum permitted area of a shed shall be one hundred (100) square feet.
- 4) Height: the height shall not exceed ten (10) feet as measured from grade to the peak of the roof.
- 5) Such structure shall be properly anchored per manufacturer's recommended specification or as determined by building official for similar structures, (i.e. garages)

(c) Pools: Above and Below Ground Swimming Pools Accessory to Residential Dwellings

- 1) Setbacks
 - a. Pools may not be located in any front yard.
 - b. From principal building; ten (10) feet minimum,
 - c. From detached garages or other accessory structures: three (3) feet minimum,
 - d. Side Yard Setback: three (3) feet minimum, nor shall a pool be located within any public utility easement, whether platted or implied;
 - e. Corner Side Yard Setback: five (5) feet minimum, nor shall a pool be located within any public utility easement, whether platted or implied;
 - f. Rear Yard Setback: three (3) feet minimum, nor shall a pool be located within any public utility easement, whether platted or implied;
- 2) Location of pumps, filters, mechanical equipment. Shall be located no less than fifteen (15) feet from any habitable portion of a neighboring residential structure (not including attached or detached garages).
- 3) Fencing: Shall comply with Appendix G of the 2012 International Residential Code.

d) Permitted obstructions: The following accessory buildings, structures and uses may be permitted encroachments in minimum required yard as follows:

F denotes Minimum Required Front or Corner Side Yard

R denotes Minimum Required Rear Yard

S denotes Minimum Required Side Yard

A denotes All Minimum Required Yards

1	Awnings	Awnings shall not extend more than two (2) feet into the minimum required front, side or rear yard	All Yards
2	Balconies, open	Balconies shall not extend more than four (4) feet or fifty percent (50%), whichever is less, into the minimum required front, side or rear yard.	All Yards
3	Canopies	Canopies shall not extend more than two (2) feet into the minimum required front and rear yards and canopies attached to detached garages may be located within the required side or rear yard, so long as no portion thereof is located less than two (2) feet from the rear lot line or less than two (2) feet from the side lot line.	F, R
4	Children's playhouses	Playhouses must meet all bulk and location requirements that are applicable to sheds. See subsection 18.12.060 (B)	R
5	Chimneys	Chimneys shall not project more than two (2) feet into the required front, side, or rear yard. Chimneys shall have a minimum setback in the side yard of five (5) feet.	All Yards
6	Decks, open	Decks may extend ten (10) feet into the minimum required rear yard. Decks may be roofed, however they may not be enclosed or heated.	R
7	Driveways	See 18.44 for off-street parking requirements and 18.12.040 for lot coverage requirements	All Yards
8	Eaves and Gutters	Eaves and gutters shall not extend more than two (2) feet into the minimum required front, side or rear yard, except that eaves and gutters of detached garages and sheds may be located within the required side or rear yard, so long as no portion thereof is located less than two feet from the rear lot line or less than two feet from the side lot line.	All Yards
9	Entranceway [stairs, stoop]	Front stoop(s) may project up to five (5) feet into a required front yard and entrance stairs may project an additional five (5) feet beyond the front edge of the stoop.	All Yards
10	Fences	See 18.52 for fence regulations.	
11	Firewood	Minimum 3 feet setback from any side or rear property line.	S, R

12	Flags	No more than two flag poles shall be permitted on any zoning lot used for residential purposes in a residential zoning district, at a maximum height not to exceed the maximum building height permitted in the relevant zoning district. Flags on zoning lots on which public buildings are located shall be exempt from these restrictions.	F
13	Food vegetation		S, R
14	Gazebos	They may not exceed a height of fifteen (15) feet and may not have a floor area greater than 150 square feet. Gazebos must meet all location requirements that are applicable to sheds. See subsection 18.12.060 (b)	R
15	Garages (detached) and carports	See sub-section 18.12.060 (a)	S, R
16	Garbage Containers	Residential garbage cans may not be located in the front yard or corner side yard.	S, R
17	Air Conditioning Condenser Units	Central air-conditioning equipment which is either ground-mounted or bracket-mounted, generators, or other heating and ventilation equipment except window-mounted air conditioners which are exempt from this section, must meet the minimum yard requirements of the zoning district and must be no less than fifteen (15) feet from any adjacent habitable residential structure.	S, R
18	Landscape walls	The height of landscape walls shall not exceed the height of the foundation of the principal structure.	All Yards
19	Lawn Furniture and benches		All Yards
20	Light poles	In residential zoning districts, light poles shall not be located in any required yard other than the front yard and shall not exceed eight (8) feet in height; provided that light poles may be located in a rear yard inside the fence required in conjunction with a swimming pool, at a height not to exceed four (4) feet from the surface of the water. The source of lighting shall be designed or shielded so the source of illumination is minimized from adjacent properties.	All Yards

21	Non-mechanical laundry drying equipment	Non-mechanical laundry drying equipment including clotheslines and any standards supporting such equipment may only be located behind a residential structure and shall not be located in any required yards.	R
22	Off-street loading berths	See 18.44 for off-street parking requirements and 18.12.040 for lot coverage requirements	
23	Off-street parking	See 18.44 for off-street parking requirements and 18.12.040 for lot coverage requirements	
24	Ornamental decorations and statuary	Minimum 5 feet setback from any property line.	All Yards
25	Pergola	Pergolas may not be located within a required front yard Minimum 5 feet setback from side or rear property line. Pergolas may be constructed to a height of ten (10) feet if built on grade level, or if built upon a raised deck or patio, may be built to a height of then (10) feet above the finished deck or patio structure.	All Yards
26	Porches	An unenclosed porch may extend up to five (5) feet into any minimum required front so long as there is no habitable structure above.	F
27	Porch Swings	No portion of a porch swing shall extend more than four (4) feet into the minimum required front, side, or rear yard.	All Yards
28	Retaining walls	The height of retaining walls shall not exceed the top of the foundation of the principal structure unless approved by the Village Engineer for structural purposes. Any retaining wall that is more than three feet in height shall be certified by a structural engineer. On corner lots, no retaining wall shall exceed eighteen (18) inches above the grade in any portion of the yard situated within the area of a triangle, two legs of which are a distance of twenty-five (25) feet when measured from the point of intersection of any two street lines.	All Yards
29	Satellite dish antennas		All Yards
30	Sheds	See sub-section 18.12.060 (b)	R
31	Sidewalks		All Yards
32	Signs	See sub-section 18.58	

33	Sills, belt courses, cornices	Sills, belt courses, and cornices up to six (6) inches in depth are allowed to project into any required yards.	All Yards
34	Swimming pools	See sub-section 18.12.060 (c)	R
35	Swing sets	Swing Sets, trampolines and jungle gyms shall not be located in any front yard area and must be located no closer than five (5) feet from a rear or side property line and may not exceed a height of fifteen (15) feet.	R
36	Patios & Terraces, open	Patios and Terraces may not be located in any front yard. Minimum Side and Rear Yard Setbacks shall be three (3) feet. Minimum Corner Side Yard setback of five (5) feet. See 18.12.040 for lot coverage requirements	S, R
37	Ponds and waterfalls		S, R
38	Windows	For residentially zoned buildings, projecting windows may extend up to one (1) foot into all required yards. In front and rear yards, bay windows may extend up to three (3) feet into the minimum required yard.	All Yards

Section 8. Subsection (1) of Section 18.58.050(x), entitled “Off-Site Advertisement/Billboards”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting the same and inserting therefor:

“(1) Off-site advertisements/billboards are restricted to lots directly abutting I-290 and I-294.”

Section 9. Subsection (4) of Section 18.58.050(x), entitled “Off-Site Advertisement/Billboards”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby deleted.

Section 10. Section 18.58.070(d), entitled “Signs Allowed in the B-1 Zoning District”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting Sub-section (28) and inserting therefor:

“(28) Off-Site Advertisement/Billboards are restricted to lots directly abutting I-290 and I-294.”

Section 11. Section 18.58.070(e), entitled “Signs Allowed in the B-2 Zoning District”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting Sub-section (28) and inserting therefor:

“(28) Off-Site Advertisement/Billboards are restricted to lots directly abutting I-290 and I-294.”

Section 12. Section 18.58.070(f), entitled “Signs Allowed in the B-3 Zoning District”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting Sub-section (28) and inserting therefor:

“(28) Off-Site Advertisement/Billboards are restricted to lots directly abutting I-290 and I-294.”

Section 13. Section 18.58.070(g), entitled “Signs Allowed in the B-4 Zoning District”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting Sub-section (28) and inserting therefor:

“(28) Off-Site Advertisement/Billboards are restricted to lots directly abutting I-290 and I-294.”

Section 14. Section 18.58.070(h), entitled “Signs Allowed in the I Zoning District”, of Chapter 18.58, entitled “Signs”, of Title 18, entitled “Zoning”, of the Westchester Municipal Code is hereby amended by deleting Sub-section (28) and inserting therefor:

“(27) Off-Site Advertisement/Billboards are restricted to lots directly abutting I-290 and I-294.”

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Section 15. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED this 27th day of April, 2015, pursuant to a roll call vote as follows:

Angelo A. Calcagno	<u>Aye</u>	Celestine Reda	<u>Aye</u>
Paul Gattuso	<u>Absent</u>	Nick Steker	<u>Aye</u>
Frank Perry	<u>Aye</u>	Tom Yurkovich	<u>Absent</u>

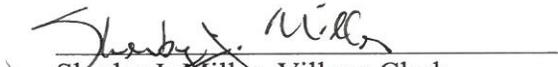
President Pulia Aye

APPROVED this 27th day of April, 2015.



Sam D. Pulia, Village President

ATTEST:



Sherby J. Miller, Village Clerk