

Chapter 325

Zoning

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{History: Adopted by the Board of Trustees of the Village of Dexter 4-20-2001 by L.L. No.1-2001 {Chapter 39 of the 1971 Code}. Amendments noted where applicable.}

General References

- Airport Turning Zone – See Ch 9.
- Uniform Construction Codes – See Ch. 60
- Flood Damage Prevention – See Ch. 102

- Streets and Sidewalks – See Ch. 259
- Subdivision of Land – See Ch. 265
- Waterfront Consistency Review – See Ch. 314

ZONING LAW

ARTICLE 1

General Provisions

§ 325-1 Title

This chapter shall be known as the “Village of Dexter Zoning Law.”

§ 325.2 Purpose

The purpose of this chapter and the intent of the Village Board in its adoption is to promote the health, safety, and general welfare of the community, and in furtherance of the following related and more specific objectives:

- A. To protect the character and values of residential, commercial, industrial, and public uses to insure their orderly and beneficial developments.
- B. To provide adequate open spaces for light, air and open space.
- C. To prevent overcrowding of the land.
- D. To regulate the location of buildings and intensity of land uses in relation to streets according to plans so as to cause the least interference with traffic movements resulting in lessened street congestion and improved public safety.
- E. To establish zoning patterns which insure economical extension for sewers, water supply, waste disposal and other public facilities.
- F. To guide the development of the Village so as to bring about the gradual conformity of land uses in accordance with the goals, objectives, and policies of Dexter’s Comprehensive Plan.
- G. To protect beneficial uses of coastal resources in accordance with the Village of Dexter’s Local Waterfront Revitalization Program.

§ 325-3: Word Usage; Definitions

A. Word Usage

{1} Construction of words. When used in this chapter, words in the present tense include future and words of one gender include all genders. The singular numbers include the plural and the plural include the singular.

{2} Definitions. When used in this chapter, unless otherwise expressly stated, the following words and terms shall have the meanings indicated.

{3} The word “lot” includes the word “plot.” Doubt as to the precise meaning of any word used in this chapter shall be clarified by the Board of Appeals under their powers of interpretation.

- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING: A building, the use of which is customarily incidental to that of a dwelling or any other use and which is located on the same lot as that occupied by the main building.

ACCESSORY USE: A use that is secondary and incidental to a principal use and located on the same lot limited therewith. "Accessory Uses" for one or two family dwellings include, but are not limited to, a home occupation, private parking and private storage. "Accessory Uses" for agricultural uses include, but are not limited to, storage of seed, fertilizer, machinery, fuel or feed for the agricultural use; auctioning of livestock; slaughtering other than for compensation; and sale of firewood, lumber, honey, livestock or other produce grown or raised by the agricultural operation. "Accessory Uses" for other principal uses include any use commonly associated therewith and subordinate thereto.

ADULT ENTERTAINMENT ESTABLISHMENT: Any lot, building, structure or portion thereof in which a minor is not allowed due to the adult entertainment use conducted therein. Adult entertainment establishments include but are not limited to adult bookstores, adult theaters {live or motion picture}, message parlors and topless or striptease bars, each of which is defined below.

{1} **ADULT BOOKSTORE:** An adult entertainment establishment used for the sale, whether retail or wholesale, or rental, whether for viewing on or off premises, of books, magazines, periodicals, films, videotapes/cassettes or other viewing materials distinguished or characterized by an emphasis on the display or depiction of sexual activity or specified anatomical areas.

{2} **ADULT THEATER {LIVE OR MOTION PICTURE}:** An adult entertainment establishment used for live performances or motion pictures distinguished or characterized by the display or depiction of sexual activity or specified anatomical areas.

{3} **MESSAGE PARLOR:** An adult entertainment establishment used for administering massages to the external parts of the human body, including the rubbing, stroking, kneading, tapping or vibrating thereof with the hand or any other instrument. This definition shall not be deemed to include any of the following: a medical care facility, nursing home or office of any health care practitioner licensed by the State of New York; a barber or a beauty shop administering message to the scalp, face, neck or shoulders, a manicure or pedicure shop administering message to the hands or feet respectively, a volunteer rescue squad or a community facility, or indoor or outdoor recreation facility operated by a governmental agency or nonprofit organization.

{4} **TOPLESS OR STRIPTEASE BAR:** An adult entertainment establishment used for the serving and consumption of alcoholic beverages and featuring topless dancers, waitresses, strippers or other persons displaying sexual activity or specified anatomical areas for the patrons thereof.

ADULT ENTERTAINMENT USE: Any business or activity conducted for gain, either as a principal or accessory use, which devotes or intends to devote more than 25 square feet of net floor area or more than 10 % of its total net floor area, whichever is less, or more than 10% of the volume of its stock to display or depiction of sexual activity or specified anatomical areas, regardless of whether by live entertainment, motion picture, videocassette, photograph, cartoon or the means in a manner unsuitable for viewing by minors or otherwise prohibited by the statutes of New York State.

{1} **SEXUAL ACTIVITY:** Any act of masturbation, fellatio, cunnilingus sodomy, sadomasochism, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or if such person is female, breast.

{2} **SPECIFIED ANATOMICAL AREAS:** Human male and female genital pubic area, or when absent of any opaque covering, buttocks, female breasts with less than a full opaque covering of any portion thereof below the top of the areola and covered male genitals in a discernibly turgid state.

AGRICULTURE: The raising of fruits, vegetables and the like, and structures incidental thereto but not including the raising or keeping of animals.

ALTERATION, STRUCTURAL: To change or rearrange walls, roof, ceiling, floors, supporting beams, columns, or other structural parts; interior plans or layout, the exterior architectural features; or the exit facilities of a structure; or moving of a building from one location to another.

ANIMAL HOSPITAL: A commercial use for the care and/or breeding of animals.

ANTENNA: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not limited to radio navigation, radio, television, personal communication systems, cellular, paging, and microwave communications.

AREA:

{1} **LOT AREA:** The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

{2} **BUILDING AREA:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

{3} **FLOOR AREA:** The sum of the gross horizontal area of the several floors of building. "Floor area" does not include cellars, unenclosed porches, or accessory buildings not used for human occupancy.

AUTOMOBILE SERVICE STATION: A building or place of business where gasoline, oil, grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail and where minor repair service is rendered.

BED AND BREAKFAST: See "tourist home."

BODY SHOP: Major automotive repair facility.

BUFFER: An open space, the sole purpose of which is to protect adjacent property from the impacts of a use or uses on a given property. A buffer may or may not include additional protection in the form of fencing plants, natural vegetation, earthen berm or combinations thereof.

BUILDING: Any structure having a roof supported by columns or by walls and intended for shelter, housing protection or enclosure of persons, animals or property.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the average height between the eaves and ridge for other types of roofs.

BUILDING LINE: The line is formed by the face of the building/structure or the attached part of building/structure nearest the lot line. This shall include measurement from such structure as uncovered porches, patios, terraces, open areaways of overhangs, cornices, eaves and other similar protrusions.

BUILDING PERMIT: Written permission issued by the proper municipal authority or its contractor for the construction, repair, alteration, or addition to a structure.

CAMOFLAGING: The construction of facilities to house or support telecommunications towers so that the towers blend readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging that could be used: silo and barn, windmill and simulated tree.

CAMPGROUND: Any area of land or water on which are located two or more cabins, travel trailers, tents, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodation actually are occupied seasonally or otherwise.

CARPORT: A roofed structure with or without enclosing walls used for the storage of one or more automobiles.

CERTIFICATE OF OCCUPANCY: A document issued by the proper municipal authority or its contractor allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable municipal codes and ordinances.

CLUB: Any organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes that are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required for the membership and purposes of such club.

CODE ENFORCEMENT OFFICER: The Code Enforcement Officer is the person appointed by the Village Board to carry out the regulations of this chapter.

COMMERCIAL USES: Those uses that are of a service, retail or wholesale nature. This includes commercial recreation facilities and medical facilities but does not include those uses defined as industrial, quarries, or slaughterhouses.

COMMUNITY FACILITY: A building, structure or use operated for the benefit of the general well-being and enjoyment of the public. The use shall include but not be limited to fire stations, libraries and community-owned buildings.

CONDOMINIUM: Multiple-family dwelling unit which are individually owned, each owner receiving a deed enabling him to sell, mortgage or exchange his apartment, independent of the owners of other apartments in the building or buildings.

CONVERSION: The changing of use or occupancy of a dwelling by alteration or by other reorganization so as to increase the number of families or dwelling units in a structure.

DANGEROUS USE: The manufacture, bulk storage, or handling of explosives, illuminating gases, lethal or toxic chemicals, or other explosives, combustibles inflammable lethal or toxic substances in such quantities or in such manner as may or does endanger the public safety. The term does not include the operation of a retail gasoline station.

DAY-CARE CENTER: A facility duly permitted by the New York State Department of Social Welfare for the care of seven or more children for less than 24 hours a day.

DISSEMINATION: The transfer of possession, custody, control or ownership of or the exhibition of presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or anatomical areas.

DUMP: A lot or part thereof used primarily for disposal by abandonment, dumping, burial, burning or any other means, and for whatever purpose, of garbage, offal sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof or waste material of any kind.

DWELLING: A building designed or used exclusively as living quarters of one or more families; the term shall not be deemed to include automotive court, motel, rooming house, mobile home, trailer, tourist home, tent or bed and breakfast.

DWELLING, MULTIPLE FAMILY: A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

DWELLING, SINGLE FAMILY: A building containing one dwelling unit and designed or used exclusively for occupancy by one family.

DWELLING, TWO FAMILY: A building designed to be occupied exclusively as a home or residence for two families.

DWELLING UNIT: Building or part thereof used as living quarters for one family. The terms "dwelling," "one family dwelling," "two family dwelling," or "multiple family dwelling" shall not include a motel, hotel, bed and breakfast, tourist home, mobile home or similar structure.

EASEMENT: A grant of one or more of the property rights by the owner to and for the use of the public, a corporation or another person or entity.

ERECT: To erect, construct, build, re-erect, reconstruct, rebuild or excavate for a building or structure.

ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance, by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment, or storage facilities, pumping stations, and similar facilities, excluding telecommunication facilities.

FAMILY: One or more persons living together in a single keeping unit, sharing kitchen cooking facilities. The forgoing is distinguished from a group of people occupying a boarding house, lodging house, club, fraternity or sorority, hotel, motel, bed and breakfast facility or tourist home.

FLOATING DISTRICT: An unmapped zoning district where all the zone requirements are contained in this chapter, and the zone is fixed on the map only when an application for development meeting the zone is approved.

FLOOR AREA, GROSS: The sum of gross horizontal area of the several floors of the building or buildings on a lot measured from the exterior walls or from the center line of the party walls separating two buildings, excluding:

{1} Roof areas;

{2} Cellar areas used only from incidental storage or for the operation and maintenance of the building, and;

{3} Any areas devoted only to accessory off-street parking or loading.

FRATERNITY OR SORORITY HOUSE: Dwelling maintained exclusively for members of a fraternity or sorority enrolled in an academic college, university or other educational institution.

FRONTAGE: The extent of a building or a lot along a street as defined herein.

FRONT LOT LINE: The right-of-way line adjoining a public street or highway. If a lot adjoins two or more streets or highways, it shall be deemed to have a front lot line respectively on each.

FUNERAL HOME: A dwelling or other structure used and occupied by a professionally licensed mortician for burial preparation and funeral services.

GARAGE, COMMERCIAL: A building designed or used for the rental of more than two interior parking spaces or used for the service, maintenance, repair of other commercial activity in relation to automotive vehicles.

GARAGE, PRIVATE: A building other than a private or minor garage, one or more stories in height, used for housing, storage or repair of trucks, trailers or automobiles, whether or not accessory or incidental to another use.

GRADE, FINISHED: The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating hereto.

GREENHOUSE: An enclosure used for the cultivation or protection of tender plants.

HABITABLE SPACE: Space used for living, sleeping, eating, or cooking purposes, excluding kitchenettes, bathrooms, toilet rooms, storage spaces and enclosures for equipment installations.

HEALTH SERVICES: Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen and miscellaneous types of medical supplies and services.

HOME OCCUPATION: A residential accessory use that is generally of a service character, is conducted by an individual or family wholly within a dwelling unit and/or building accessory thereto, does not alter the residential character of the lot on which it is conducted and does not have any exterior storage, display or other evidence of the occupation. The term includes, but not limited to, a dressmaker, a seamstress, an upholsterer, music or voice instruction or an office in the home for a lawyer, architect, landscape architect, engineer or surveyor.
{see Article IV, §325-16, of this chapter}

HOTEL: A building, with more than six rooms available for hire used primarily to provide sleeping accommodation for the transient public.

JUNKYARD: A lot, land or structure or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal, or other scrap or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

KENNEL: Any premises on which four or more dogs over four months old are kept.

LIGHT INDUSTRIAL USE: A light industry is a facility that manufactures a product for wholesale or retail sale and does not employ over 50 people. The industry does not produce high volumes of polluting wastes and is compatible with other uses of the Light Industrial {LI} district.

LOT: A parcel of land occupied or capable of being occupied by one principal building and/or use and the accessory buildings or uses to such buildings or use and having as a minimum such open spaces as are required by this chapter.

LOT AREA: The total horizontal area included within the lot lines.

LOT CORNER: A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The percentage of the lot area that is occupied by the ground area of a building and its accessory The point of intersection of the street lot lines is the “corner.”

LOT COVERAGE: The percentage of the lot area that is occupied by the ground area of a building and its accessory buildings, if any.

LOT, INTERIOR: A lot other than the corner lot.

LOT LINE: Any boundary of a lot. Any lot line not a rear line nor a front line shall be deemed a side line.

LOT, THROUGH: An interior lot extending from one street to another.

LOT WIDTH: The distance between the boundaries of a lot measured at their points of intersection with the street right-of-way line.

MAIN STRUCTURE: The building or structure housing the principal use on the lot. {1}

MAUNUFACTURED HOUSING: Prefabricated dwelling units constructed with or without a permanent chassis {i.e., mobile homes or modular homes}. This term includes mobile homes, single or doublewide.

{1} **MOBILE HOME:** A prefabricated dwelling unit transported in two or more sections on a permanent chassis and designed for use as a permanent dwelling when installed on a permanent foundation.

{2} **MODULAR HOME:** A prefabricated dwelling unit transported in two or more sections on a temporary chassis and designed for use as a permanent dwelling when installed on a permanent foundation.

MANUFACTURING PLANTS: A building or set of buildings with facilities for manufacturing, including assembling, processing and fabrication.

MOBILE HOME PARKS: Any parcel of land under single or common ownership which has been improved for the placement of two or more mobile home for non-transient use.

MOBILE HOME SALES AREA: The display, storage or sale of mobile homes at any location for the purpose of retail sales.

MOBILE HOME SPACE: An area of land in a mobile home park that is equipped with the necessary utilities and improvements for sitting of a mobile home thereon. A mobile home space is at least 7500 square feet.

MARINA: A lot, building, or structure located on or adjacent to the waterfront that provides docking or secure mooring facilities for marine vehicles.

MEDICAL BUILDING: A building that contains establishments dispensing health services.

MOTEL: A building or buildings providing overnight accommodation for motorists. The word motel includes motor court, tourist court, tourist cabins, motor lodge and similar descriptive titles.

NEIGHBORHOOD PARKING AREA: An area on one or more building lots devoted to car parking for occupants of adjoining or nearby dwellings and their guests.

{1} **Editor's Note:** Amended at time of adoption of Code {see Ch. 1, General Provisions, Art II.}

{02-01-2011}

NONCONFORMING USE: A building, structure, or use of land lawfully existing at the time of enactment of this chapter, or any subsequent amendment thereto, but which does not conform to the regulations of the district or districts in which it is located, by reason of either such enactment of this chapter, or as a result of such subsequent amendments thereto, subject to the requirements of Article VIII of this chapter. {2}

NURSING HOME OR CONVALESCENT HOME: A building other than a hospital where persons, except insane, mentally impaired, drug or alcoholic patients, are lodged, furnished with meals and nursing care for hire.

OFFICE, BANK OR ADMINISTRATIVE NON-RETAIL USE: The use of a building or portion thereof principally for conducting business transactions of an administrative, professional or service nature and not involving the sale of products at retail or wholesale. The term includes, but is not limited to the following uses: insurance or real estate sales; employment agencies; medical, dental or chiropractors' practice; accounting, architectural, engineering, law or surveying firms; banking or stock brokerage; and home nursing services.

OFF-STREET PARKING FACILITIES: A space for parking off the public streets and places in the Village.

OUTDOOR SOLID-FUEL-BURNING FURNACE: An accessory structure, whether attached or detached from a principle structure, designed and intended to provide large quantities of heated water, through the burning of solid fuel for the purpose of heating the principle structure, and or any other structure located on the same premises or lot. {added 4-12-2006 by L. L. No. 1-2006}

OVERLAY DISTRICT: A zoning district that supplements the base zoning district by requiring additional restrictions or regulations for a specific purpose. It is generally used as supplement to several base zoning districts: for example, the Waterfront Revitalization District and the Flood Hazard Area in this chapter.

PARKING LOT: An off-street, ground level, open area, usually improved, for the temporary storage of motor vehicles.

PARKING, PRIVATE: An area devoted to car parking by occupants of the dwelling on the same building lot.

PARKING, PUBLIC: A parking area available to the public, with or without payment of a fee.

PARKING SPACE: One off-street parking space available for parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

PARKING STRUCTURE: A building or structure consisting of more than one level and used to store motor vehicles.

PATIOS: A recreation area that adjoins a dwelling and is often paved.

PERMITTED USES: Any use permitted under the provisions for the district in which the land, building or structure is located.

PERSON: Any individual, group of individuals, partnership, firm, corporation, association or other legal entity.

PERSONAL SERVICES: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio and businesses providing similar services of a personal nature. The term “personal services” shall exclude massage parlors.

PHOTOVOLTAIC: Pertaining to the direct conversion of light into electricity. {3}

PHOTOVOLTAIC CELL: The smallest semiconductor element with a PV module to perform the immediately conversion of light into electrical energy; also referred to as a “solar cell.” {4}

PLANNED UNIT DEVELOPMENT: An area required to be a minimum of five contiguous acres by this chapter, which is, or is proposed to be, developed according to a plan as a single entity and containing one or more structures with appurtenant common areas. It may or may not contain a variety of different lands uses and is subject to the requirements of Article III, §325-15, of this chapter.

PLANNING BOARD: A seven-member board, appointed by the Village Board of Trustees, whose principal duties are to consider and approve requests for site plans, special permits and subdivisions. This Board shall also act as an advisory board to the Village Board on proposed amendment of this chapter {added 6/17/2009 by L.L. No. 2-2009}

PORCH, OPEN: A roofed open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

PROFESSIONAL OFFICE: One used by a duly licensed architect, attorney, dentist, optometrist, engineer, insurance broker, or salesman, physician or surveyor and not to exceed one employee.

PUBLIC AND SEMIPUBLIC FACILITIES: Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

{1} Religious Institutions.

{2} Public parks, playgrounds, and recreation areas when authorized or operated by a governmental authority.

{3} Schools.

{4} Not-for-profit fire, ambulance, public safety buildings and health care facilities.

{5} Public Libraries.

{6} Community Centers. This term shall be understood as meaning hall, or place of assembly, not operated primarily for profit.

{3} Editor's Note: Added at time of adoption of Code {see Chapter 1, General Provisions, Art. II}

{4} Editor's Note: Added at time of adoption of Code {see Chapter 1, General Provisions, Art. II}

PUBLIC UTILITY FACILITY: A facility for the provision of public utility service, including facilities constructed altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam heat, communication, i.e., not limited to water, sewage collection, or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings.

REAR LOT LINE: That lot line which is opposite and most distant from the 911 address line. In the case of square corner lots, the lot lines opposite the two front lot lines shall both be rear lot lines.

RECREATION FACILITIES: A municipally or privately owned {for commercial purposes} and operated swimming pool, open space, tennis court, athletic field or similar facility for recreational uses.

RENTAL OPERATIONS: A commercial activity that may include the rental of transportation, farming, and recreational equipment.

RESIDENTIAL USE: A use whose primary purpose is a dwelling. Residential uses include single-family dwellings, two-family dwellings, multi-family dwellings and mobile homes.

RESTAURANT: A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

RETAIL, LARGE PRODUCT: Includes sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles and farm implements, auctioneers where auctions take place on site, retail tree nurseries and garden shops, furniture and large appliance sales.

RETAIL, SMALL: A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on-premises manufacturing, processing and serving and preparation customarily associated therewith and generally involving either stock-in-trade such as are normally associated with department stores, food markets, convenience stores, and similar establishments or services such as barbers, hairdressers, shoe repair, laundry, photographer, dry cleaner, video store or similar uses. Small retail shall not include large retail products.

RIGHT-OF-WAY LINE: The dividing line between a lot and a road right-of-way line. Where there is no established right-of-way line, the right-of-way line shall be considered to be 25 feet from the center of the pavement.

ROAD: A thoroughfare for motor vehicles that affords the primary means of access to private property.

ROOMER, BOARDER OR LODGER: A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board, and lodging by prearrangement for a week or more at a time, to an owner or operator. Any person occupying such room or rooms and paying such compensation without prearrangement.

ROOMING HOUSE: A dwelling or other residential structure in which lodging facilities are supplied for pay over an extended period of time and distinguished from tourist home.

SETBACK {OF BUILDING OR OF A STORY THEREOF FROM A PARTICULAR LOT LINE}: The horizontal distance from such lot line to the part of the building or of the story respectively which is nearest to such lot line, which shall be deemed to be the distance that such building or story is “set back” or that it “sits back” from such lot line.

SHOPPING CENTER: A group of stores, shops, and similar establishments occupying adjoining structures, all of which may be deemed one building if designed as an architectural unit and if has adequate space in the rear for loading and unloading commodities.

SIGN: Any structure or part thereof or device attached thereto or painted or represented thereon, which shall display or include any letter, word, model banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word sign includes the word billboard, but does not include the flag, pennant or insignia or any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement or event.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or solar hot air and water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat; a device for extracting the energy of the sun directly into a more usable or storable form. {5}

SOLAR ENERGY: Energy from the sun that is converted into thermal or electrical energy; the generation of electricity from the sunlight. {6}

SOLAR STORAGE BATTERY: A device that stores energy from the sun and makes it available in an electrical form. {7}

SPECIAL USE: A use which is not permitted in a particular district, except upon full compliance with all applicable general and specific standards set forth under Article 9 of this chapter to ensure that such use would be compatible with the character of the surrounding area, the intent of the particular district involved and the purpose of the chapter.

STABLE: Building in which not more than three (3) horses are kept for private use.

{5} Editor’s Note: Added at time of adoption of Code {see Ch. 1, General Provisions, Art. II}.

{6} Editor’s Note: Added at time of adoption of Code {see Ch. 1, General Provisions, Art. II}.

{7} Editor’s Note: Added at time of adoption of Code {see Ch. 1, General Provisions, Art. II}.

STREET LINE: The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way.

STRUCTURE: A combination of materials assembled, constructed, erected or attached to the ground or attached to something underground, including but not limited to underground storage tanks, except leach lines, septic tanks and systems that are not structures.

SWIMMING POOL: Any body of water or receptacle for water having a depth at any point greater than two feet used or intended to be used for swimming or bathing and constructed, installed or maintained in or outside any building.

TELECOMMUNICATION FACILITY: Towers and/or antennae, accessory structures and any equipment used in conjunction with the provision of cellular telephone services, personal communication services (PCS) paging services, radio and television broadcast services and similar broadcast services. A telecommunication facility shall include mono-pole guyed, latticework tower(s) and other similar structures, as well as antennae switching stations, principal and accessory telecommunication equipment and supporting masts, wires, structures and buildings. The following types of telecommunications facilities are not subject to the provisions of this law:

1. Antennas used solely for residential household reception.
2. Satellite antennas measuring two (2) meters or less in diameter and located in commercial districts and satellite antennas one (1) meter or less in diameter, regardless of location.
3. Routine repairs and maintenance may be undertaken without restriction, provided that such activity is conducted between the hours of 7:00 AM and 7:00 PM Monday through Friday.
4. Law enforcement, fire controls, E911 and medical and emergency facilities.
5. Emergency repairs at any time, provided that prior notice is given to the Municipal Enforcement Officer.

TELECOMMUNICATION TOWER: A structure on which transmitting and/or receiving antennas are located. It includes, without limit, freestanding towers, guyed towers, mono-poles and similar structures which may employ camouflaging.

THEATER: A building or part of a building devoted to showing moving pictures or stage productions on a paid admission basis.

TOURIST HOME/BED & BREAKFAST: A dwelling in which overnight accommodations are provided or offered for transient guests, with or without meals for compensation, but such use is secondary to the occupancy of a dwelling by the family.

TOWN HOUSES: A one family dwelling in a row of at least three such 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 vertical common fire resistant walls. {**Added 11-15-2006 by L.L. No. 3-2006**}

TRAVEL OR CAMPING TRAILER: A vehicular, portable structure designed to be used as a temporary dwelling on a seasonal basis or for travel, recreational and vacation uses.

TRAVEL TRAILER PARK: A parcel of land under single or common ownership which has been improved for the placement of two or more travel trailers, recreational vehicles, or tents for transient use.

TRAVEL TRAILER SPACE: A parcel of land within a travel trailer park, at least 2500 square ft. in area, which has been equipped with the necessary utilities and improvements for temporary placement of a single travel trailer, recreational vehicle, or tent.

USE: The specific purpose of which any land, building or structure is used, designed, arranged, intended or occupied.

VARIANCE: A grant of relief from the requirements of this chapter.

VARIANCE, AREA: A relief from the dimensional requirements of this chapter.

VARIANCE, USE: A relief from the allowed use requirements of this chapter.

WALL: A structure of wood, stone and other materials or combination thereof intended for defense, security, screening, partitioning, or enclosure or for the retention of the earth, stone, fill or other materials as in the case of retaining walls or bulkheads. A fence is considered a wall.

WHOLESALE ESTABLISHMENTS OR WAREHOUSES: Bulk storage and bulk sales outlet.

YARD, FRONT: The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front lot line.

YARD, REAR: The space within and extending the full width of the lot from the rear lot line to the part of the principle building which is nearest to such lot.

YARD, SIDE: The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

ZONING BOARD OF APPEALS: A five-member board appointed by the Village Board whose principal duties are to consider requests for variances from this chapter.

ZONING PERMIT: A permit issued under this chapter allowing the establishment of a new use or the construction, placement or alteration of a building or structure.

ARTICLE II

Establishments of Districts

§ 325-4: Types of Zones

For the purposes of this chapter, the Village of Dexter is hereby zoned into the following districts:

Single-Family Residential	R-1
Single and Two Family Residential	R-2
Multi-Family Residential	R-3
Single and Two Family Residential {Added 11-15-2006 by L.L. No. 3-2006}	R-4
Commercial	C
Light Industrial	L-1
Waterfront Revitalization District (Overlay)	WRD
Flood Hazard Area (Overlay)	FHA
Planned Unit Development (Floating)	PUD

§325-5: Zoning Map

The boundary of each zone established by this chapter is delineated by the map entitled “Zoning Map” Village of Dexter, New York, effective April 2001, and filed with the Village Clerk. This map is hereby adopted and declared to be part of this chapter. 8

325-6: Interpretation of District Boundaries

A. Where uncertainty exists, in respect to the exact boundaries of districts as shown on the zoning map, the final decision will be made by the Zoning Board of Appeals.

B. Where a district boundary line divides a lot in single or joint ownership existing at the time of the enactment of this local law, the use authorized on and the district requirements of the most restricted portion of such lot shall be understood as extending to the entire lot.

C. District boundary lines generally follow or parallel, at set distances, center lines of roads, existing lot lines, and other man-made and natural features. The Zoning Officer shall be given the authority to scale these districts from the zoning map and relate them to accurate ground points.

ARTICLE III

Zoning District Regulations

§ 325-7: Single-Family Residential {R-1}

A. Purpose: The primary purpose of this district is to promote and enhance single-family residential neighborhoods.

B. Permitted Uses: (See Article IV, Supplemental Regulations, of this chapter for additional requirements)

{1} Single-family dwellings

C. Uses permitted upon special use permit approval. {see Article IX of this chapter for additional requirements}

{1} Public and semipublic facilities.

{2} Essential services.

{3} Home occupations,

{4} Solar collectors. {added 6-21-2011 by L.L. No. 1-2011}

{5} Accessory uses for the above uses.

{6} Small wind turbines: {added 6-21-2011 by L.L. No. 2-2011}

D. Lot dimensions. {amended 6-21-2011 by L.L. No. 1-2011}

{8} Editor’s Note: The Zoning Map is included at the end of this chapter. {Contact Village Office for copy of Zoning Law}

	Single-Family Dwelling
1. Minimum Lot Area	8000 sq ft.
2. Minimum Lot Width (measured at frontage)	65 feet
3. Minimum Front Yard Set Back	25 feet*
4. Minimum Rear Yard Set Back	30 feet***/5 feet**
5. Minimum Side Yard Set Back	10 feet/5 feet**
6. Maximum Building Height	35 feet/24feet*
7. Maximum Lot Coverage	35%

NOTES

- * or in line with property's main structure or neighboring adjacent buildings.
- ** Accessory use or structure shall be constructed with a minimum 5 foot set back.
- ***When two rear yards meet, each owner's building must set back 15 feet from the rear property line.

§ 325-8 Single and Two-Family Residential {R2}

A. Purpose: The purpose of this district is to provide primarily for the mixture of single and two family dwellings.

B. Permitted uses: (See Article IV, Supplemental Regulations, of this chapter for additional requirements.)

{1} Single-family dwelling.

{2} Residential conversion: maximum of two dwellings

{3} Two-family dwellings.

C. Uses Permitted Upon Special Use Permit Approval (See Article IX of this chapter for additional requirements.)

{1} Funeral Homes.

{2} Public and semi-public facilities.

{3} Home Occupations.

{4} Essential Services.

{5} Solar collectors. {added 6-21-2011 by L.L. No.1-2011}

{6} Accessory uses for the above.

{7} Small wind turbines. {added 6-21-2011 by L.L. No. 2-2011}

D. Lot Requirements {amended 6-21-2011 by L.L. No. 1-2011}

	Single Family Dwelling Residential Conversion Maximum Two Dwellings	Two-Family Dwellings
1. Minimum Lot Area	8000 sq. feet.	10,000 sq. feet.
2. Minimum Lot Width	65 feet.	80 feet.
3. Minimum Front Yard Set Back	25 feet.*	25 feet.*
4. Minimum Rear Yard Set Back:	30 feet.***/5 feet.*	30 ft.***/5 ft.*
5. Maximum Side Yard Set Back	10 feet./5 feet.**	10 ft./5 ft.**
6. Maximum Building Height	35 feet./24 feet.*	35 feet./24 feet.*
7. Maximum Lot Coverage	35%	35%
8. Minimum Dwelling Unit Size	550 square feet.	550 square feet

{added 11-15-2006 by L.L. no. 3-2006}

- * or in line with property's main structure or neighboring adjacent buildings.
- ** Accessory use or structure shall be constructed with a minimum 5 foot setback.
- *** When 2 rear yards meet, each owner's building must set back 15 feet from the rear property line.

§ 325.9: Multiple Family Residential {R-3}

- A. Purpose: The primary purpose of this district is to promote and enhance multi-family residential neighborhoods.
- B. Permitted Uses: (see Article IV, Supplemental regulations, of this chapter for additional requirements)
- {1} Single-family dwellings, modular and single/double wide mobile homes.
 - {2} Two-family dwellings.
 - {3} Residential conversion: Maximum of two dwellings.
- C. Uses Permitted Upon Special Use Permit Approval (see Article IX for additional requirements)
- {1} Home Occupations
 - {2} Public and semi-public facilities.
 - {3} Essential Services.
 - {4} Bed-and-breakfast and tourist homes.
 - {5} Accessory use/structure.
 - {6} Condominium.

{7} Funeral Homes.

{8} Multi-family dwelling {added 4-12-2006 by L.L. No. 1-2006}

{9} Apartments. {added 11-15-2006 by L.L. No. 3-2006}

{10} Solar collectors. {added 6-21-2011 by L.L. No. 1-2011}

{11} Small wind turbines. {added 12-06-2011 by L.L. No. 2-2011}

D. Dimensional regulations. {amended 6-21-2011 by L.L. No.1-2011}

	Single Family Dwellings Residential Conversion Maximum Two Dwellings	Two Family Dwellings	Multiple Family Dwellings
1. Minimum Lot Area	8000 sq. feet.	10,000 sq.foot	12,000 sq. feet
2. Minimum Lot Area	65 feet	80 feet	100 feet.
3. Minimum Front Yard Setback	25feet*	25 feet *	25 feet *
4. Minimum Rear Yard Setback	30 feet***/5feet	30 feet***/5ft.	30 feet ***/5 ft
5. Minimum Side Yard Setback	10 feet/5 feet*	10 feet/5 feet*	10 feet/5 ft*
6. Maximum Building Height	35 feet/24 feet*	35 feet/24 feet*	35 feet/24 ft*
7. Maximum Lot Coverage	35%	35%	35%
8. Minimum Lot Area Per Unit {amended 11-15-2006 by L.L. No. 3-2006}	550 sq. feet	550 sq. feet	3000 sq. feet

NOTES:

* Or in line with property's main structure or neighboring adjacent buildings.

** Accessory use or structure shall be constructed with a minimum five foot setback.

*** When two rear yards meet, each owner's building must be back 15 feet from the rear property line.

§ 325-10: Single and Two-Family Residential – R-4. {added 11-15-2006 by L.L. NO. 3-2006}

A. Purpose: The purpose of this district is to provide for the creation of a zoning district that is consistent with the Village of Dexter Zoning Code for the properties that are newly annexed into the village boundaries and to provide for the mixture of single and two family dwellings. This Zoning District will be consistent with the Comprehensive Plan of 1986 of the Village of Dexter and the LWRP Plan of 2001.

B. Permitted Uses

1. Single Family Dwelling
2. Two Family Dwelling

C. Uses Permitted Upon Special Use Permit Approval

1. Town Houses
2. Public and Semi-Public Facilities
3. Home Occupations
4. Essential Services
5. Solar Collectors. {added 6-21-2011 by L.L. No. 1-2011}
6. Accessory Uses for the Above.
7. Small wind turbines. {added 12-06-2011 by L.L. No. 1-2011}

D. Lot Dimensions

{1} Minimum Lot Area	16000 sq. feet.
{2} Minimum Lot Width	80 feet.
{3} Minimum Front Yard Setback	25 feet.*
{4} Minimum Rear Yard Setback	30 feet***/5 feet.*
{5} Minimum Side Yard Setback	10 feet/5 feet. **
{6} Maximum Building Height	35 feet.
{7} Maximum Lot Coverage	35%
{8} Minimum Dwelling Size	1100 sq. feet

- *or in line with adjacent buildings or main structure.
- ** Accessory use or structure shall be constructed with a minimum 5 ft. setback.
- *** When 2 rear yards meet, each owner's building must set back 15' from the rear property line.

§ 325-11: Commercial C.

- A. Purpose: The primary purpose of this district is to promote commercial establishments and enhance the business environment.
- B. Uses Permitted Upon Special Use Permit Approval (see Article IX of this chapter for additional requirements)
1. Large and small product retail uses.
 2. Offices
 3. Marina
 4. Restaurants
 4. Automobile Service Station
 6. Public & Private Parking Garages & Lots
 7. Hotels
 8. Motels
 9. Funeral Home
 10. Rental Operations
 11. Club
 12. Shopping Center
 13. Theater
 14. Public & Semi-Public Facilities
 15. Professional Services
 16. Personal Services
 17. Accessory Uses
 18. Fraternity & Sorority
 19. Solar Collectors. **{added 6-21-2011 by L.L. No. 1-2011}**
 20. Small Wind Turbines. **{added 12-6-2011 by L.L. No. 2-2011}** {9}
 21. Similar commercial uses to the above-listed uses.

{9} Editor's Note: This local law also re-designated former Subsection B{20} as Subsection B{21}

C. Lot Dimensions {**amended 6-21-2011 by L.L. No. 1-2011**}

	Special Use Permit
1. Minimum Lot Area	12,000 sq. feet.
2. Minimum Lot Width Measured Frontage	100 feet
3. Minimum Front Yard Setback	30 feet
4. Minimum Rear Yard Setback	30 feet
5. Minimum Side Yard Set Back	10 feet
6. Maximum Stories **	3
7. Maximum Lot Coverage	35 feet/24 feet for accessory structures
8. Maximum Lot Coverage	35%

Note:

** As measured for the front building line.

§ 325-12: Light Industrial {L-1}

A. Purpose: To promote the industrial sector and economy of the village.

B. The following allowed uses are subject to special use permit: (see Article IX of this chapter for additional requirements)

1. Manufacturing Plants
2. Public Utility Facility
3. Light industrial operations
4. Wholesale establishments or warehouses
5. Body shop
6. Recreational facilities
7. Public and semi public facilities
8. Adult uses
9. Telecommunications facilities
10. Medical center
11. Mobile home park
12. Professional services

13. Personal services
14. Large and small product retail
15. Accessory uses
16. Funeral home
17. Fraternity or sorority houses
18. Similar allowed uses
19. Small restaurant {fifty person maximum}
20. Agriculture
21. Marina
22. Auto service station
23. Public and private parking garages and lots
24. Hotels
25. Motels
26. Animal hospitals
27. Rental operations
28. Club
29. Shopping center
30. Theater
31. Solar collectors {**added 6-21-2011 by L.L. No. 1-2011**}
32. Small wind turbines {**added 12-06-2011 by L.L. No. 2-2011**}

C. Lot Dimensions

Special Use Permit

1. Minimum Lot Area	.5 Acre
2. Minimum Lot Width Measured Frontage	100 feet
3. Minimum Front Yard Setback*	25 feet
4. Minimum Rear Yard Setback*	30 feet
5. Minimum Side Yard Setback*	10 feet
6. Maximum Stories**	3

- * Minimum setback of 50' from any residential lot.
- ** As measured from front building line.

§ 325-13: WATERFRONT REVITALIZATION OVERLAY DISTRICT

A. Purpose

{1} One of the purposes of the Waterfront Revitalization Overlay District is to delineate an area contiguous with the boundary of Dexter's Local Waterfront Revitalization Program (LWRP) coastal area whereby new development and redevelopment shall be reviewed for compatibility with the politics and purposes of the LWRP. As an overlay district, the Waterfront Revitalization Overlay District does not replace the existing land use districts and their provisions, but rather represents an additional level of review, superimposed on the provisions of the existing or underlying districts that specifically relate to the policies and purposes of the LWRP.

{2} In addition, the land and water resources of Dexter's Black River and Black River Bay waterfront areas represent a unique mix of natural and man-made resources. It has historically played an important role in the development, economy, and cultural heritage of the village and the region. The State designed Significant Fish and Wildlife Habitat (Dexter Marsh and Black River Habitat), the water quality, the visual, scenic, and cultural character, including the trees, bluffs, open water areas and historic structures are the primary elements supporting these activities.

{3} It is the purpose of the Waterfront Revitalization Overlay District to afford priority to waterfront-compatible, well-designed uses, achieve public access to the coastal area, control development and protect and enhance the Black River and Black River Bay waterfront's natural scenic and cultural resources. Further, it is the purpose of the Waterfront Revitalization Overlay District to provide opportunities for permanent public views and access to the Black River and Black River Bay and to implement the policies and purposes of the Village of Dexter Local Waterfront Revitalization Program.

{4} To the extent possible, structures, storage and parking areas shall be set back from the waterfront to increase or maintain open space on the Black River and Black River Bay waterfront areas, reduce impacts on the significant fish and wildlife habitat and reduce opportunities for flooding and erosion. Design and siting of structures will make use of area vegetation and topography and will enhance the visual, scenic and cultural character of the river and bay waterfront areas.

{5} All uses proposed in the Waterfront Revitalization Overlay District shall require a special use permit and approval by the Planning Board. The Planning Board will at the same time review the proposed use for consistency with the policies and purposes of the Dexter Local Waterfront Revitalization Program, pursuant to the provisions of Chapter 314, Waterfront Consistency Review. The Waterfront Revitalization Overlay District is an overlay zone that imposes conditions and standards in addition to those of the underlying district. When there is a conflict between the provisions of the Waterfront Revitalization Overlay District and the provisions of the underlying zoning districts, the more restrictive shall apply. The following regulations shall apply to all activities within the Waterfront Revitalization Overlay District.

B. Permitted Uses: All permitted uses as specified for the underlying land use districts, subject to the requirements of the underlying land use districts including the requirements for a special use and the policy standards and conditions set forth in the Dexter Local Waterfront Revitalization Program (LWRP), which was adopted by the Dexter Village Board, and hereby made a part of this chapter (see Chapter 314, Waterfront Consistency Review.) All actions in the Waterfront Revitalization Overlay District, that are subject to a special use permit, shall be evaluated for consistency with the LWRP policy standards and conditions, which are derived from and further explained in Section IV of the Dexter LWRP, a copy of which is on file in the Dexter Village Clerk's Office and available for inspection during normal business hours. {9}

C. Permitted Accessory Uses: All uses permitted as accessory uses of the underlying land use districts.

D. Lot Dimensions

{1} All lot dimensions will be determined by those lot dimensions associated with the underlying zoning districts, except that all permitted uses and accessory uses that are water dependent and require a location on the water, such as boathouses and docks, are not subject to the lot dimension requirement act, it applies to the portion of the lot adjacent to the waterfront.

{2} Maximum lot coverage: 40% including all structures and/or impervious surfaces.

§ 325-14: Flood Hazard Area (Overlay) FHA

A. Purpose

{1} The purpose of the Flood Hazard Area (Overlay) is to delineate those portions of the Village of Dexter subject to flooding, whereby new development and redevelopment shall conform Chapter 102, Flood Damage Prevention.

{2} As an overlay district, Dexter's Flood Hazard Area (Overlay) does not replace the existing regulations in the land use districts, but rather represents an additional set of regulations and review superimposed on the underlying districts.

B. Permitted Uses: All permitted uses as specified for the underlying land use districts, subject to all of the requirements of the underlying land use districts including the requirements of a special use permit and the provisions in chapter 102, Flood Damage Prevention, of the Code of the Village of Dexter.

C. Permitted Accessory Uses: All uses permitted as accessory uses of the underlying land use districts.

D. Lot Dimensions: All lot dimensions will be determined by those lot dimensions associated with the underlying zoning districts.

9. Editor's Note: Amended at time of adoption of Code {see Ch. 1, General Provisions, Art. II}.

02-01-2011

§ 325-15: Planned Unit Development District (Floating) PUD

A. Purpose: It is the intent of the Planned Unit Development (PUD) District to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Village of Dexter that incorporate a variety of residential types and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. The PUD encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and siting of dwellings and by the conservative and more efficient use of land in such developments.

B. Objectives: The PUD District shall achieve the following objectives:

- {1} A maximum choice in the types of environment, types of housing, lot sizes and community facilities available to existing and potential village residents at all economic levels;
- {2} More usable open space and recreation area;
- {3} More convenience in location of accessory commercial and service areas;
- {4} The preservation of trees, outstanding natural topography, and geologic features and prevention of soil erosion;
- {5} A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses;
- {6} An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs;
- {7} A development pattern in harmony with the objectives of Dexter's Comprehensive Plan;
- {8} A more desirable environment than would be possible through the strict application of other articles of this chapter.

C. General Requirements for Planned Unit Development

{1} **Minimum Area:** The minimum area requirements to qualify for a PUD District shall be five contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings shall meet the objectives of this law, the Village Board of Trustees may request that the Planning Board review and make recommendations on projects of less acreage.

12-01-2011

{2} **Ownership:** The tract of land for a project may be owned, leased, or controlled either by a single person or corporation. An application must be filed by the owner or jointly by

owners of all property included in a project. In the case of multiple ownership, the approved Plan shall be binding on all owners.

{3} Location of PUD District: The PUD District shall be applicable to any area of the Village that the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article.

E. Permitted Principal Uses: The following are descriptions of uses permitted in a PUD:

{1} Residential Uses: Residences may be of any variety or type. The developer shall demonstrate that he is reaching as broad an economic market as possible.

{2} Non-Residential Uses: Commercial uses may be permitted if such uses are scaled primarily to serve the residents within the PUD.

{3} Accessory Uses: Accessory uses such as private garages, storage spaces, recreational and community activities, churches, and schools shall also be permitted as appropriate to the PUD.

E. Intensity of Land Use: Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross building area than usual in traditionally zoned districts. The Village Planning Board shall recommend to the Village Board of Trustees in each case the appropriate land use intensity and/or dwelling unit density for individual projects.

F. Common Property: Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared by owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property, and facilities, including private streets, drives, service and parking areas, recreational, and open-space areas.

G. Procedure: Following are procedural steps that shall be followed when applying for PUD status:

{1} To establish PUD Districts, the zoning map must be amended in accordance with the following procedures and the regulations for amendments to this chapter found in Article VII, §§325-58, of this chapter.

{2} The Planning Board and the Village Board shall review and approve the application according to the review procedures and criteria set forth in Article IX, Special Use Permits, §§ 325-65 through 325-71, of this chapter.

{3} If no noticeable intent to develop has been demonstrated within one (1) year from the date, PUD status is granted and the land shall revert to its former zoning status.

{4} An approved PUD shall not be changed to increase dwelling units, increase housing density, or increase non-residential square footage without a special use permit approval of all procedures pursuant to Article IX, §§325-65 through 325-71 of this chapter.

ARTICLE IV: SUPPLEMENT REGULATIONS

§ 325-16: Home Occupations

A. Home Occupations shall:

{1} Be carried on entirely within a dwelling unit or accessory building by one or more occupants of such dwelling unit, and in connection with the practice of a profession. One person not residing in such dwelling unit may be employed.

{2} Not occupy more than 25% of dwelling unit. The occupant (if not the owner) shall have written approval of the owner to occupy not more than 25% of the space for a home occupation.

{3} Not produce traffic conditions in excess of what is normal in a residential neighborhood.

{4} Not produce objectionable odors, noise or unsightly conditions.

{5} Be clearly incidental or secondary to the residential use of the dwelling unit.

B. The following are prohibited as home occupations:

{1} Animal Hospitals

{2} Stables or Kennels

{3} Funeral Homes

{4} Private Clubs

{5} Restaurants

C. Unlisted home occupations. Any proposed home occupation that is neither specifically exempt in subsection F of this section nor specifically prohibited by this section shall require a special permit and be granted or denied by the Village Board.

§ 325-17: Junk Yards

A. Junkyards shall not be allowed in any district within the Village.

§ 325-18: Off Street Parking

A. General {Amended 9-18-2012 by L.L. No. 2-2012}

1. All uses shall be provided with off-street parking.
2. A parking space shall not be less than ten (10) feet by eighteen (18) exclusive of access ways and driveways.
3. Parking requirements may be modified by special use permit.

B. Commercial District. {Added 9-18-2012 by L.L. No. 2-2012} 11

{1} Off-street parking may be located off site.

{2} The parking requirements in Subsection C are guidelines that should be met if possible. During the special permit process, the Planning Board will determine the amount of off-street parking spaces that would be required in Subsection C and the potential impact on the streets and neighborhood that an increase in on-street parking would have.

C. Minimum standards for parking are:

{1} Residential uses:

{a} Single family, two family/duplex and two family conversions, two (2) parking spaces for each dwelling unit.

{b} Multi family, three or more dwelling units, one and one half (1 1/2) parking spaces for each dwelling unit.

{c} Dwelling unit with home occupation shall have adequate space to accommodate all vehicles during typical peak use period, in addition to the two (2) spaces required.

{2} Places of Assembly: One parking space for every four (4) seats, or one parking space for every 200 square feet of gross floor area or whichever is greater.

{3} Restaurant, eating and drinking establishments: one for each 60 square feet of gross floor area.

{4} Hotel, motel, tourist home, boarding house: one parking space for each guest room.

{5} Mortuary: One parking space per 100 square feet of gross floor area.

{6} Light industrial: One for each employee at maximum working shift.

{7} Retail, small product: one for each 200 square feet of gross floor area, plus one for each employee.

{8} Retail, large product: One for each 400 square feet of floor space, plus one for each employee.

{9} Wholesale establishments or warehouses, one for each employee in maximum shift.

{10} Office General: One for each 200 square feet of first floor area and one each per 300 square feet of floor space above the first floor, plus one for each employee.

{11} Unspecified Uses: As required by the Planning Board.

11. Editor's Note: This local law also redesigned former Subsection B as Subsection C.

§ 325-18.1 Construction Standards {Added 9-18-2012 by L.L. No. 2-2012}

All driveways, residential and commercial, that are constructed by private individuals or enterprise shall conform to the policy standards contained in New York State Department of Transportation's "Policy and Standards for Entrances to State Highways," published and adopted in 1983. All other driveways not entering into New York State highways shall be at least 20 feet clear in width, except for one-family or two-family residential uses.

§ 325-19: Off-Street Loading

Every building occupied for the purpose of commercial or industrial use shall provide adequate space for loading and unloading of vehicles off the street.

§ 325-20: Signs

- A. In a Residential District, no stationary sign or billboard shall be permitted except one (1) customary professional sign; one (1) sign not larger than four (4) square feet, real estate signs not larger than eight (8) square feet, when placed on properties offered for sale or rent; signs appropriate to a public or semi-public building and signs incident to legal process and necessary to the public welfare.
- B. In a Commercial District, no stationary signs or billboard shall be permitted for signs not larger than forty (40) square feet advertising a business conducted on the premises and shall require a zoning permit. No place of business in the commercial district shall make exterior displays of more than three (3) signs of any size. {Amended 6-21-2011 by L.L. No.1-2011}
- C. The area of a sign shall be determined by measuring the entire area within a rectangular perimeter formed by extending lines around the limits of any writing, representation, emblem, or any figure of similar character, including any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has two and more faces, the area of all faces shall be included in determining the area of the sign. {Added 6-21-2011 by L.L. No. 1-2011}
- D. No stationary sign or billboard in any district may extend over a sidewalk or other public way.
- E. Zoning permits shall be required for all stationary signs larger than 40 square feet in area, and they shall be regarded as buildings or structures within the meaning of this chapter.
- F. No signs shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.
- G. Signs in commercial and industrial districts are subject to a special use permit.
- H. Any sign within a State Right-of-Way or trail should have prior state approval.

§ 325-21: Mobile Homes

- A. Mobile Homes Parks: No person or persons, being the owner or occupant of any land in the Village, shall use or permit the development and use of such land as a mobile home park without first obtaining a permit.
- B. Application for a Permit: Written application for a permit for a mobile home park shall be filed in duplicate in the Village Office. No permit for a mobile home park shall be issued by the Code Enforcement Officer until an approval through a Special Use Permit procedure has been made and granted.
- C. Applications for a mobile home park shall include the following:
- {1} Names and addresses of all applicants, if an individual or partnership, and names and addresses of principal officers if a corporation.
 - {2} Name and address of the owner of the land upon which the mobile home park is proposed to be located.
 - {3} Location map showing the following:
 - {a} Property lines and dimension of the tract to be developed, including the location roads, right of ways and easements.
 - {b} Topography, site drainage, and natural features, including creeks, ponds, flood plains and wetlands.
 - {c} Width and ownership of all internal and immediate external streets.
 - {d} Source of water supply and layout of water system.
 - {e} Method of sewage disposal and layout of sewage system.
 - {f} Boundaries of each mobile home space.
 - {g} Location of all off-street parking spaces (two 10' x 18' spaces required per mobile home) and fire lanes (as per the Code Enforcement Officer and generally accepted standards)
 - {h} Location of solid waste collection facilities.
 - {I} Location of any site-built structures, manager's quarters, laundry or recreation buildings.

D. Mobile Home Parks shall comply with the following:

{1} Streets or drives internal to the park shall have fire lanes at least 20 feet wide to provide clear access to each mobile home space, in addition to any off-street parking. The park owner shall be responsible for construction, maintaining and plowing these streets. All streets shall be of a blacktop asphalt surface or equivalent.

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{2} Each mobile home shall be set back at least 15 feet from streets or drive internal to the park, and at least 50 feet from property lines abutting a public right-of way or highway.

{3} A separation distance of 20 feet shall be maintained between all mobile home units in the park, including any attached accessory structures.

{4} Each mobile home space shall have a minimum of 7500 square feet overall density and shall not exceed six mobile homes per acre.

{5} At least two off-street parking places shall be provided on each mobile home space.

{6} A proposed mobile home park shall not be granted approval or a permit unless applicable New York State Health Department Codes have been approved by the Department of Health.

{7} The owner or manager of the mobile home park shall maintain an office in the immediate vicinity of the park, and shall keep accurate records of the name of park residents and the identification number of all mobile homes located within the park.

§ 325-22: Recreational Vehicle Parks or Camps.

No person or persons being the owner or occupant of any land in the Village shall permit the development and use of such land as a recreational park or camp without first obtaining a permit; and shall comply with the following rules:

- A. Each travel trailer/RV space shall be at least 2500 square feet in size.
- B. The entire park shall be at least 5 acres in size and shall have direct access to paved, dedicated and public road.
- C. Streets or drives internal to the park shall have fire lanes at least fifteen (15) feet in width which provide clear access to each individual space. The park owner or operator shall be responsible for constructing, maintaining and plowing these roads.
- D. No trailer site campsite or service building shall be closer than twenty-five (25) feet to any property line or closer than fifty (50) feet to a public street right-of-way.
- E. Each travel trailer park shall provide a building containing one toilet, lavatory and shower for each sex, for each 20 travel trailer lots, unless admission to the park is restricted to travel trailers equipped with these facilities.
- F. The owner/operator of a travel trailer park shall maintain an office in the immediate vicinity of the park; and shall maintain a current up-to-date list of all persons with trailers located within the park.

§ 325-23: INDIVIDUAL TRAVEL TRAILER/RECREATIONAL VEHICLES. {12}

No person shall occupy a travel trailer, camper or recreational vehicle on an overnight basis except:

- A. In a travel trailer which has been approved by the Village Board; or
- B. A single travel trailer may be occupied on private land with consent of the owner for a period not to exceed 30 consecutive days, provided that existing sanitary {water and sewer} services are available. This shall not be interpreted to prevent parking a travel trailer, camper or recreational vehicle unoccupied on an owner's lot for storage purposes only.

§ 325-24: Mobile Home Sales Area

- A. The display, storage or sale of mobile homes in any location of the Village shall be allowed only through the Special Use Permit Process with the approval of the Planning Board. The sales area shall be landscaped and provided with a hard dust-free off-street parking of at least 6 cars and no more than 8 units are to be displayed at any one time. No display unit shall be located less than 15 feet from the public right-of-way. {amended 6-17-2009 by L.L. No. 2-2009}
- B. All mobile homes not located in a park shall be subject to all applicable regulations and setbacks that are required in the zoning district for which the applicant is proposing the construction.

§ 325-25: Waterfront Lots {13}

Waterfront Construction and Waterfront Overlay District shall adhere to Chapter 102, Flood Damage Prevention, and Chapter 314, Waterfront Consistency Review, of the Code of the Village of Dexter.

§ 325-26: Animal Hospitals

Adjacent properties shall not be adversely impacted by noise, odors or unsightly appearance of use.

§ 325.27: Automobile Service Stations

- A. All automobiles service stations and their fuel pumps shall be arranged so all services in the premises are no closer than forty (40) feet to the road line. No gasoline pumps shall be closer than twenty-five (25) feet from any property line.

12. Editor's Note: Added at time of adoption of Code {see Ch. 1, General Provisions, Art. II}

13. Editor's Note: Amended at time of adoption of Code {see Ch. 1, General Provisions, Art. II}

- B. Inoperative or unregistered motor vehicles shall not be stored outside for a period longer than three (3) months unless they are enclosed within a structure or fence which blocks the view of the motor vehicles from any other lot or public right-of-way.
- C. Entrance and exit driveways shall be located at least five (5) feet from any side or rear property line.
- D. Underground tanks and above ground tanks shall not be less than twenty five (25) feet from the property line.

§ 325-28: Institutional Uses

- A. Such facilities shall be in keeping with the character of the neighborhood.

§ 325-29: Single Family Dwellings

All single-family dwellings shall meet the following standards:

- A. The minimum roof pitch shall be one-foot rise over four-foot run.
- B. The roof shall be comparable in appearance to the roofing of site-built homes.
- C. The exterior walls shall have a traditional site built appearance.

§ 325-30: Multi-Family Dwellings

- A. Traffic access shall conform to NYS Department of Transportation Standards Circulation and Parking.
- B. Arrangement of Buildings:
 - 1. Building arrangement shall provide adequate light, air, access and privacy.
 - 2. Each dwelling unit shall have a minimum of two (2) external exposures.

§ 325-31: Motels and Hotels

- A. Where adjacent land use is residential, screening and buffer zones shall be provided to reduce noise, dust and visibility. Landscaping shall be provided along all walks, streets and around recreation areas.
- B. A minimum of twenty five percent (25%) shall be developed as open space. Parking areas and vehicle access facilities shall not be calculated as open space.
- C. Such uses shall have a minimum area of one hundred and fifty (150) square feet of rentable space for each unit, exclusive of bathroom facilities. Each rental unit shall include a minimum of one (1) bedroom and bathroom, containing a toilet, sink, and tub or shower.

§ 325-32: Light Industrial

- A. Such uses shall not produce exterior noise levels exceeding 75 dBA (at the lot line), cause erosion or drainage problems, or high volumes of polluting wastes. All handling of wastes must be in the conformance with New York State Department of Environmental Conservation regulations.
- B. Any manufacturing, fabricating, or servicing related to the operation must take place within a building designed to accommodate the use.
- C. Materials, used in the operation and stored outside the building accommodating the use, must be enclosed by a fence at least five (5) feet in height.
- D. All village water and sewer connections shall be made prior to operation and according to specifications set forth by the Village Board.
- E. Landscaping shall include adequate vegetative ground cover to eliminate erosion. Trees shall be retained where possible.

§ 325-33: Fences and Walls

- A. Fences and walls are acceptable in all districts and a permit is required for their construction. They shall not be placed as to cause a traffic hazard. They shall not be more than six (6) feet in height unless they enclose the immediate grounds of a private swimming pool or other essential community or public swimming facility. The fence shall be two (2) foot from the property line with the finished side out and posts shall be installed on the interior side of the fence. They shall be kept in good structural repair so that they are not a safety hazard, and shall not be barbed wire or razor wire. A chained link fence must have closed loops on top.
{14}
- B. In all zoning districts, any structures, fences, signs or shrubbery over three and ½ (3 1/2) feet in height above street level are not permitted to be maintained in a triangular area of any corner lots. This area is formed by lines along the right-of-way of both streets to points forty (40) feet distant from the intersection and then a line connecting these points.
- C. Fences facing and running alongside a street and public sidewalk shall be set back at least two (2) foot from the Village Right-of-Way.

§ 325-34: Recreation Facility

- A. The facility shall be at least fifty (50) feet from any lot line or street line.
- B. If it is a commercial facility and intended to serve a membership of clientele greater than twenty-five (25) people on a regular basis, the facility shall not be closer than one hundred (100) feet to a residential lot line.

C. A commercial use must be adequately screened to reduce light, noise and dust when the use is adjacent to a residential lot. Screening may include fencing or hedges of appropriate density.

D. Such operations that have service facilities for the same equipment shall meet the requirements for automobile service stations in this section.

§ 325-35: Yard Requirements {amended 4-12-2006 by L.L. No. 1-2006}

A. In determining the yard requirements of a lot, chimneys, vestibules, overhangs, eaves, porches, carports, private garages or similar structures are considered a part of the principal building. Such structures shall not be required to have a setback distance from the principal building, but they shall maintain required setbacks from adjacent lot and street lines.

B. Front lot line determination to be made by the Code Enforcement Officer, Superintendent of Public Works, or a Village Board Designate.

§ 325-36: Outdoor Solid Fuel Furnaces {added 4-12-2006 by L.L. No. 1-2006}

A. Purpose: The Village Board has determined that outdoor solid fuel burning furnaces, due to the types of solid fuel used and the scale and duration of the burning of solid fuel by such furnaces, create obnoxious and hazardous smoke, soot fumes, odors and air pollution, and such emissions can be detrimental to citizens' health and can deprive neighboring residents the enjoyment of their property or premises. The Village Board also takes notice of the fact that residences in the Village, being in close proximity to each other, require that some conduct, acceptable in the countryside, cannot be permitted within the confines of the Village and may be a nuisance to neighbors.

B. The construction, installation or operation of outdoor solid fuel burning furnaces, whether as a new or replacement installation, is prohibited within the Village of Dexter.

§ 325-37: Height Exceptions {amended 4-12-2006 by L.L. No. 1-2006}

Nothing herein contained shall be interpreted to limit or to restrict the height of silos, church spires, bell, clock, fire and observation towers and public utility structures. {See Village Chapter IX, Airport Turning Zone, of the Code of the Village of Dexter.}

§ 325-38: Temporary Uses and Structures

Temporary permits may be issued by the Enforcing Officer for a period not exceeding one year for the incidental nonconforming uses as follows: temporary uses incidental to a construction project, temporary real estate sales office incidental to a subdivision, temporary roadside stand for sale of agricultural products raised on the property, other similar temporary incidental uses; provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the period not exceeding one year.

§ 325-39: Adult Uses

A. Purpose: The Village Board recognizes that adult use businesses, because of their nature, have serious objectionable characteristics. Such activities are deleterious to the health, welfare and well being of the residents of the Village of Dexter and adversely and seriously endanger the adjacent area thereto. It is recognized that special regulation is necessary in order to prevent proliferation of such uses and to ensure that those effects will not adversely influence the surrounding areas. It is thus necessary and desirable for the welfare of the citizens of the Village that such businesses be regulated in such a manner as to prevent the erosion of the character of the Village. Therefore the purpose of this chapter is to regulate the establishment of such adult use businesses within close proximity to residentially zoned areas, schools, playgrounds and churches so as to minimize the effect on such neighborhoods.

B. Regulations:

{1} In addition to the requirements for Chapter 325, Zoning, of the Code of the Village of Dexter, those adult uses defined in § 325-3, Definitions, of this chapter shall be permitted subject to the following regulations:

{a} No adult use shall be located in the Village of Dexter except in the light industrial district.

{b} No adult use shall be located within five hundred (500) feet of any residentially zoned area or municipal boundary.

{c} No adult use shall be located within one thousand (1000) feet measured from lot line of any church, school, park, library or playing field.

{d} Specific standards for adult uses:

{1} Outside advertising for all such uses shall be limited to one (1) advertising sign, no larger than four (4) square feet, nor shall such sign consist of any material other than plain lettering. No sign shall have any photographic or artistic representative whatsoever thereon. No sign shall be erected without prior approval of said signs by the Board of Trustees.

{2} All buildings' openings, entries, windows, doors etc. shall be located, covered or screened in such a manner as to prevent a view into the interior from outside of the premises.

{3} No adult use shall be established in a building of which any part is used for residential purposes.

{4} No residential use shall be established in a building of which any part is used as an adult use establishment.

{5} No adult use shall be closer than fifty (50) feet from any other business use.

{6} Stairways, sloping or rising paths, building entrances and exits shall be illuminated. Spotlight type fixtures attached to buildings should be avoided.

{7} Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes.

{8} No adult use shall be established closer than two hundred (200) feet from any other adult use.

{2} For the purpose of this chapter, measurements shall be made in a straight line without regard to the intervening structures or objects from the nearest portion of the building or structure used as a part of the premises for an adult use business to the nearest property lines of a building containing a church, school, library or to the nearest boundary of a park or playground.

{3} Applicability: This chapter shall apply to any person, firm, corporation, club, association or other entity which actually engages in the conduct of a regulated use under this law and shall further and equally apply to the owner of any building, structure or premises upon which such regulated use is conducted. Any violation of this law shall subject both the person, firm, club association, corporation or entity conducting such regulated use, and the owners of the premises upon which such regulated use is conducted to the penalties provided herein.

325-39.1 Solar Collectors {added 6-21-2011 by L.L. No. 1-2011}

A. Solar energy collectors shall be permitted only to provide power for use by the owners, lessees, tenants, residents or other occupants of the premises on which they are erected. A special use permit is required as per this chapter.

B. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Village of Dexter. Building permits shall be required for the installation of rooftop and building-mounted solar collectors.

C. Ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts of the Village of Dexter, subject to the following requirements:

{1} The location of the solar collector shall meet all applicable setback requirements of the zoning district in which they are located.

{2} The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.

{3} A building permit must be obtained for the solar collector.

{4} The solar collector shall be located in a side or rear yard.

D. The site plan review shall include review of the adequacy, location, arrangement, size, design and general site compatibility of proposed changes to or additions of solar collectors. Where a plan exists, a modified site plan shall be required if changes or additions of solar collectors are added.

E. The plan submitted to the Building Code Inspector as a requirement for the issuance of a building permit shall indicate all existing and proposed grading, excavating, filling, paving, fencing and screening as it may relate to the proposed collector; shall indicate the location of all property lines and neighboring building; and shall comply with the requirements of §325-68.

F. Prior to operation, the electrical connections must be inspected by the Village Code Inspector and by the New York Board of Fire Underwriters or other appropriate electrical inspection agency as determined by the Village of Dexter. In addition, any other connection to the public grid must be inspected by the appropriate public utility. Upon completion of all inspections, the Code Inspector for the Village of Dexter will immediately notify the local fire department of the installation.

G. When solar storage batteries are included as part of the solar collector system and are in use, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. When the batteries are no longer in use, they must be disposed of in accordance with the laws and regulations of Jefferson County and other applicable laws and regulations.

H. If the solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the twelve-month period.

325-39.2 Wind Turbines {added 12-6-2011 by L.L. No. 2-2011}

A. **Intent:** In order to balance the need for clean renewable energy resources and the necessity of public health, safety and welfare of the community, the Village of Dexter finds these regulations are necessary to ensure small wind turbines are safely sited and installed.

B. **Definitions:** The following definitions are specific to 325-39.2:

Ambient Sound: The sound level {L₉₀} found to be exceeded 90% of the time over which sound is measured in a noise analysis. Unless indicated otherwise, frequency weighing according to the A-weighting scale is understood to be applicable. The ambient sound at a given location is used as a reference level to study a new intrusive sound source.

Commercial Wind Turbine: A wind turbine used to generate electricity solely to sell to the power grid.

Kilowatt: A unit of work or energy equal to that expended by one kilowatt in one hour or up to 3.6 million joules.

Roof-Mounted Wind Turbine: A wind turbine that is designed to be mounted on the roof of a structure.

Site: The parcel of land where a small wind turbine is to be placed. The site can be publicly or privately owned.

Small Wind Turbine: A wind turbine which has a rated capacity of not more than 100 kilowatts and which is intended to reduce the consumption of utility power at a site. Small wind turbines may or may not be connected to the power grid.

Sound Level: The statistical sound pressure level that is exceeded for a given proportion of the time over which sound is measured.

Total Height: The height of the tower and the furthest vertical extension of the wind rotor plane.

Tower: The vertical component of a wind turbine that elevates the wind turbine generator and the attached blades.

Wind Turbine: An electric generator, blades, tower, associated electronics, and accessory facilities that convert the kinetic energy in the wind into a usable form.

Wind Turbine Accessory Facilities or Equipment: Any structure other than the wind turbine, related to the use and purpose of deriving energy from such towers, located on the site.

C. Applications

{1} No small wind turbines shall be constructed, reconstructed, modified or operated in the Village of Dexter except by obtaining a special use permit.

{2} No commercial wind turbine shall be allowed within the Village of Dexter.

D. Additional application information. In addition to the information required for special use permit applications in Article IX, the following shall be required for small wind turbines:

{1} The proposed make, model, and manufacturer's specifications of the proposed turbine, including sound power level data and material safety data sheet documentation for all materials used in the operation of the equipment shall be provided.

{2} Location of each proposed tower and wind turbine accessory facilities or equipment.

{3} Ownership and land use information for all parcels within 500 feet of the location of the tower or roof-mounted system.

{4} A written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan to connect the system to the electric grid and so states in the application.

{5} A visual analysis of the small wind turbine as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicated the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

E. Development Standards: All small wind turbines shall comply with the following standards and with all requirements established by other sections of this article that are not in conflict with the requirements contained in this section:

{1} Setback Requirements: A small wind turbine tower shall not be located closer to a property line than 1 1/2 times the total height of a roof or tower. Wind turbine accessory facilities or equipment shall meet the setback requirements for general accessory structures within the zoning district.

{2} Noise

{a} Except during short-term events, including utility outages and severe thunderstorms or windstorms, a small wind turbine shall be designed, installed and operated so that noise generated by the system shall not exceed ambient plus five decibels {dBA}, as measured at the closest property line.

{b} The applicant is responsible for provided a noise analysis either conducted by a licensed engineer or conducted by the applicant and witnessed by the ZEO.

{3} Tower height may be allowed to vary, dependent on the technology employed. However, setbacks from all property lines shall be maintained, at a minimum, at 1 1/2 times the total height of the tower, The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation requirements, including Subpart B {commencing with §77.11} of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

{4} The turbine's tower and blades shall be painted a non-reflective unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

{5} The turbine should be designed and located in such a manner to minimize adverse visual impacts from public viewing areas {e.g., public parks/roads}. A small wind turbine should, to the greatest extent, use natural landforms and vegetation for screening.

{6} Exterior lighting on any structure associated with the system shall not be allowed, except that which is specifically required by the Federal Aviation Administration.

{7} All on-site electrical wires associated with the turbine shall be installed underground except the "tie-ins" to the public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Village if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.

{8} The turbine shall be operated such that no disruptive electromagnetic interference is caused. If it is demonstrated that a turbine is causing harmful interference, the turbine operator shall promptly mitigate the harmful interference or cease operation of the turbine.

{9} The turbine shall be operated such that no damage is caused by stray voltage. If it is demonstrated that a turbine is causing a problem with stray voltage, the turbine operator shall promptly mitigate the harmful interference or cease operation of the turbine.

{10} No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a turbine or tower's manufacturer's logo may be displaced on a turbine generator housing in an unobtrusive manner.

{11} Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:

{a} Tower climbing apparatus located no closer than 12 feet from the ground; or

{b} A locked anti-climb device installed on the tower.

{12} Anchor points for any guide wires for a tower shall be located within the property that the turbine is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guide lines shall be sheathed in bright orange or bright yellow. Anchor points must comply with setbacks for accessory structures.

{13} All small wind turbines shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code/Zoning Law, National Electric Code and the Village of Dexter/Zoning Law.

{14} All small wind turbines shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

{15} No part of a small wind turbine shall be located within or over drainage, utility or other established easements or on or over property lines.

{16} The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet. Roof-mounted turbines shall not have to exceed the minimum distance from the ground as long as it is mounts such that the blades are above the roof.

F. Abandonment of Use:

(1) Abandonment; Removal by Village

{a} Small wind turbines, which are not used for 12 successive, months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Village of Dexter. The applicant may request a stay from removing the small wind turbine if the Village accepts proof that the small wind turbine is being repaired or necessary parts have been ordered.

{b} If not removed within 90 days from revocation, the Village shall have the right to remove the small wind turbine at the owner's expense.

{2} All small wind turbines shall be maintained in good condition and in accordance with all requirements of this action.

ARTICLE V: TELECOMMUNICATION FACILITY

§ 325-40: Findings

- A. While the federal government has regulated the telecommunication industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.
- B. Local governments may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services.
- C. According to federal law, local governments may not regulate such uses on the basis of radio frequency radiation.
- D. The technology underlying telecommunication service requires that transmitting facilities be located in proximity to one another, as low frequency signals are passed from one service cell to another, in relay fashion.
- E. The Village has an interest in minimizing the number of towers that are located within its borders.
- F. The installation of tower structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.
- G. In many cases, antennas mounted on existing structures can provide the same level of service with minimal or no aesthetic impacts upon neighboring uses.
- H. Where the construction of new towers is necessary in order to provide services, often it is possible to house more than one such provider on a given structure, thus reducing the proliferation of new tower construction.

§ 325-41: Purpose

The Dexter Village Board recognizes the increased demand for wireless communication transmitting facilities and the need for services they provide. Often these facilities require the construction of a communication tower. The purpose of these regulations is to protect the community's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objectives. The following are guidelines to follow:

- A. Promote the health, safety and general welfare of the residents of the Village through the establishment of minimum standards to reduce the adverse visual effects of telecommunication facilities through careful design, siting, and screening.

§ 325-42: Applicability

- A. No telecommunication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- B. No existing structure shall be modified to serve as a telecommunication facility unless in conformity with these regulations.
- C. If co-locating on an existing tower or structure, then a telecommunication facility is allowed by a zoning permit only. The Zoning Enforcement Officer will issue a zoning permit when the applicant submits an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower.
- D. New telecommunication facilities are allowed by Special Use Permit in the following districts: Light Industry
- E. New telecommunication facilities are prohibited in the following districts:
R1, R2, R3, C, and R-4. {16}

§ 325-43: Required Review Materials and Supporting Documentation for Review of Telecommunication Facilities.

- A. An application for a telecommunication facility shall include a site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, which shall be prepared to scale and in sufficient detail and accuracy and which will show the following:

- {1} The exact location of the proposed telecommunication facility with any tower guy wires and anchors;
- {2} The height of the proposed telecommunication facility tower;
- {3} The location, type and intensity of any lighting on the tower;
- {4} The location of property lines and names of adjacent land owners within 500 feet of the parcel on which the facility is located;
- {5} Proof of the landowner's consent if the applicant does not own the property;
- {6} The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of these structures to the telecommunication facility.
- {7} The location, nature and extent of any proposed fencing, landscaping and/or screening;
- {8} The location and nature of existing and proposed easements and access road, if applicable;
- {9} A side elevation or other sketch of the tower showing the proposed antennae and elevation of any accessory structures.
- {10} The site plan shall bear the seal of a professional engineer licensed to practice in New York State.
- {11} The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within 10 feet of the property line.

B. Supporting Documentation

- {1} All information prepared by the manufacturer of the antenna and/or tower including, but not limited to, the following:
 - {a} Make and model of the tower to be erected;
 - {b} Detail of tower type;
 - {c} Manufacturer's design data for installation instructions and construction plans;
 - {d} Applicant's proposed tower maintenance and inspection procedures and records systems;
 - {e} Anti-climb devices for the tower and any guy wires.
- {2} The application shall include an inventory report specifying existing telecommunication tower sites within five miles of the proposed site. The report shall outline opportunities for shared use of the existing facilities as an alternative to a proposed new tower. The report shall demonstrate good-faith efforts to secure shared use from the owner of each existing or approved tower as well as documentation of the physical, technical and/or financial reasons

why shared use is not practical in each case. Written requests and responses for shared use shall be provided. The applicant shall provide information on possible co-location on existing structures.

{3} All applicants for a Telecommunication Facility shall submit an Environmental Assessment Form (long) with visual addendum, and an analysis demonstration that location of the telecommunication facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's telecommunication system and to provide adequate service and coverage to the intended area.

{4.} The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF, such as:

{a.} A Zone of Visibility Map showing locations from which the tower or facility may be seen.

{b} Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.

{c} Possible techniques for camouflaging the tower.

{5} A copy of the applicant's Federal Communication Commission (FCC) license.

{6} An engineer's report as to structural capacity of the tower.

{7} Documentation for the justification of the height of any tower or facility.

{8} Justification for any vegetative clearing required;

{9} An engineer's certification that transmission from their telecommunication facility is in compliance with Federal Radio Frequency Emission Standards and will not interfere with existing signals such as household television and radio, etc.

{10} Legal description (metes and bounds) of the property that the proposed tower will be located on.

§ 325-44: Special Permit Review Criteria for Telecommunications Facilities.
{amended 6-17-2009 by L.L. No. 2-2009}

A Special Use Permit for a telecommunication facility shall not be authorized by the Planning Board unless it finds that such telecommunication facility conforms to the following criteria:

A. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;

B. Conforms with all applicable regulations promulgated by the Federal Communication Commission, Federal Aviation Administration, and other federal agencies;

C. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;

- D. Complies with all other requirements of this Local Law, unless expressly superseded herein;
- E. When including the construction of a tower, such tower is designed to accommodate future shared use by at least two other telecommunications service providers. Location of antennas by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, construction of accessory structures will require a special use permit.
- F. The applicant must demonstrate that no existing structures, tower or alternative technology that does not require the construction of a new tower can accommodate the applicants coverage and service needs. Evidence submitted to demonstrate that no such alternative is reasonably available may consist of the following:
- {1} No existing towers or structures are located within the geographic area (search ring) that meets the applicant's engineering requirements.
 - {2} Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - {3} Existing towers or structures do not have sufficient structural strength or space to support applicant's proposed needs.
 - {4} The applicant's proposed antenna would cause electromagnetic interference with the existing or planned antennae on the existing towers or structures or that such existing or planned antennae would cause such interference with the applicant's antenna.
 - {5} The existing tower or structure owner is unwilling to provide access or the fees, costs or contractual provisions required by the owner of the existing tower or structure in order for the applicant to co-locate on such tower or structure are unreasonable. Costs exceeding new tower construction are presumed to be unreasonable.
- G. Additional standards and factors to be considered in reviewing special use permits relating to towers:
- {1} Height of the proposed tower.
 - {2} Proximity of the proposed tower to residential structures and residential district boundaries.
 - {3} Nature of uses on adjacent and nearby properties.
 - {4} Surrounding topography.
 - {5} Surrounding existing tree coverage and foliage.
 - {6} Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - {7} Proposed ingress and egress to site.

§ 325-45: General Regulations of Telecommunication Facilities

A. Shared Use of Existing Towers and Structures

{1} At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennae on pre-existing structures (for example: municipal water towers, multiple story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, domes, monuments, windmills, chimneys, smokestacks, etc.) shall be considered.

{2} Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate upon an existing structure. Copies of written requests and responses for shared use shall be provided.

{3} An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower, and explaining what modification, if any, will be required in order to certify to the above.

{4} Documentation of intent from the owner of the existing tower or structure to allow shared use.

B. New Towers

{1} The Board shall consider a new tower only when the applicant demonstrates that shared use of an existing or approved tower or structure tower is impractical as proven by the required inventory report.

{2} The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and his/her successors in interest to:

{a} Respond within 90 days to a request for information from a potential shared use applicant.

{b} Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.

C. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection planning, project administration, land cost, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

§ 325-46: Site Design Standards for Telecommunications Facilities

A. Design. The design of a proposed new tower shall comply with the following:

{1} Any new tower shall be designed to accommodate future shared use by other telecommunications providers.

{2} The Board may request a review of the application, at the expense of the developer, by a qualified engineer in order to evaluate the need for, and the design of, any new tower.

{3} The tower should be disguised or camouflaged to blend in with surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function.

B. Dimensional Standards

{1} All proposed telecommunications facilities shall be located on a single parcel.

{2} The setback for towers shall be equal to the height of the tower, and half the height of the tower unless the applicant can provide an engineer's report indicating a smaller debris fall zone, which the Planning Board will consider and may allow lesser setbacks. The fall zone may not include public roads and must be located on property either owned or leased by the applicant, or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by area variance by the ZBA on a case-by-case basis. Towers are engineered to collapse onto itself if it should fall. There is an additional concern about debris, such as ice falling off a tower and impacting adjacent property.

{3} Guy wire anchors shall be setback from property lines the same distance as accessory structures.

{4}. Minimum lot size will be determined by setback requirements.

{5} If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plans.

{6} If the proposed tower is within 100 feet of a residential structure, then additional screening may be required.

C. Visual Impact Assessment

{1} All towers and accessory facilities shall be sited and constructed to have the least practical adverse visual effect on the environment.

{2} Towers shall not be artificially lighted except to insure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

{3} Pictorial representation of before and after views from the key view points both inside and outside of the Village including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a pre-submission conference with the applicant.

{4} Assessment of alternative tower designs and color schemes.

{5} Assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets

D. Accessory Structure. Accessory structure shall maximize use of building materials, colors and textures designed to blend with natural surroundings.

E. Screening and Existing Vegetation. The board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of the berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter {measured at a height of four feet off the ground}, shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public. Maintenance of existing vegetation is to assist in the screening of the tower. A tower that is surrounded by mature trees will not have as great an impact as a tower in an open field.

F. Parking and Access

{1} Accessways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.

{2} Driveways or parking area shall provide adequate interior turnaround, such that service vehicles will not have to back out into a public thoroughfare.

{3} Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.

{4} A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicle. Such gate must not protrude into the public right-of-way.

{5} There shall be no permanent climbing pegs within fifteen feet of any ground on any tower.

{6} Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objections of this subsection.

G. Fencing. Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence, design of which shall be approved by the board, unless the applicant demonstrates to the Board that such measures are unnecessary to ensure the security of the facility. The Board may require signage to be placed upon said fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number), and that no trespassing upon the site is allowed.

H. Height. The maximum height of a cellular tower will be sixty (60) feet.

I. Signs. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to: company name; phone numbers; banners and streamers.

J. Maintenance & Repair.

{1} Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and/or operator and a copy of the inspection report shall be submitted to the Village.

{2} All telecommunication facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 AM and 7:00 PM, Monday thru Friday, except for emergency repairs that may be undertaken at any time with prior notice to the Village.

K. Radio Emissions. The Planning Board recognizes that Federal Law prohibits the regulation of cellular and PCS communication towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Board may, however, impose a condition on the applicant that the communication antennas be operated at Federal Communications Commission (FCC) designed frequencies and power levels. The board shall request proof of compliance with these standards. No certificate of occupancy or compliance shall be issued by the Code Enforcement Officer without satisfactory proof of compliance with this requirement.

- L. Utilities: All utility connections shall be installed underground.
- M. Antennae Affixed to Existing Structures. Antennas affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between and the existing structure face.
- N. System Connections. Where technologically feasible, connections between telecommunication facilities and the system of which they are a part shall be made by use of landline cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted or otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6) feet.

§ 325-47: Removal of Towers

- A. At the time of submittal of the application of a special use permit for a telecommunication facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipments sheds, fighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower dedicated solely for use within a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
- B. At the time of obtaining a zoning permit, the applicant must provide a financial security bond or other security acceptable to the Village for removal of the telecommunications facility and property restoration, with the Village as the assignee, in an amount approved by the Board, but not less than fifty thousand (\$50,000.00) dollars.
- C. At times of renewal or modification of the permit, the Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunication facility and property restoration.

§ 325-48: Inter-Municipal Notifications

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality be considered for shared use, the Board shall require that:

- A. An applicant who proposes a telecommunication facility shall notify in writing the legislative body of each Village within the Town and each Municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
- B. Documentation of this notification shall be submitted to the Board at the time of application.

§ 325-49: Notification of Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a telecommunication facility is proposed. Notification, in all cases, shall be made by certified mail at least ten (10) days prior to the public hearing. Documentation of this notification shall be submitted to the Board prior to the public hearing.

ARTICLE VI Marina Standards

§ 325-50. New Marinas and Expansion of Existing Marinas.

Marina and related uses such as the sale of marine supplies, services, fuel equipment etc. The following standards shall apply to new marina project proposals, as well as projects for expansion of existing marinas:

- A. All new marina proposals or expansion of existing marinas shall as appropriate, include sufficient parking and park-like surrounding and toilet facilities.
- B. Marinas shall be located in areas where minimal physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding normal navigable depths, low rates of sediment transport and sufficient tidal action to promote flushing. Dredging shall be limited to the minimum dimensions necessary for the project. The Village may authorize dredging only on a seasonally restricted basis in the Dexter Marsh and the Black River Significant Fish and Wildlife Habitat. Marinas shall not be permitted in areas that would require frequent maintenance dredging that would harm aquatic life or would prevent the location of benthic organisms. Such areas would include those that would require maintenance dredging more often than every 5 years.
- C. Applicants must demonstrate that there is an adequate water supply to serve all of the project needs.
- D. Sewage marine pump-out facilities shall be provided at new marinas and expansion of existing marinas at a minimum rate of one pump-out for every 100 wet slips or fraction thereof.
- E. Adequate rest room facilities for property users will be required to discourage any overboard discharge of sewer from boats in order to protect water quality and to provide a development amenity. The number of toilets required for any marina shall be determined by the nature and size of the marina and by its specific site locations.
- F. The applicant must demonstrate adequate capacity to properly dispose of or treat all spirit wastes generated by the project.
- G. An ample number of signs must be provided to identify the location of public rest rooms and of pump out facilities. Signs must also fully explain the procedures and rules governing the use of the pump-out facilities. Pump-out facilities shall be available to all boaters regardless of whether they are patrons of the marina.

- H. Dedicated parking spaces shall be provided at a minimum rate of 0.06 spaces/slip plus whatever additional spaces are required for employees and required by the zoning for separate retail activities on the premises.
- I. Rainfall runoff becomes polluted with oils, greases, organic and inorganic wastes, and other potentially harmful substances. It is the intent of the Village of Dexter to limit to the extent feasible, the introduction of these contaminants into the waters surrounding the Village. Therefore, new parking areas shall utilize porous pavements or other approved measures to reduce rainfall runoff. New marina projects must incorporate best management practices in their design, including but not limited to the following:
- {1} Maximize pervious land surface and vegetative cover to minimize storm water and to prevent polluted waters from reaching adjacent waters and wetlands. Direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.
 - {2} Runoff from parking lots, maintenance, fueling and wash down areas must be treated in a manner that prevents oils, grease and detergents from reaching adjacent waters and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and ex-filtration system.
- J. Trash receptacles shall be plentiful and convenient to encourage the proper disposal of trash and waste. Spacing between trash receptacles on all piers and docks shall be suitable for maintaining the premises in a clean and sanitary condition.
- K. Mooring buoys or facilities subject to the following restrictions:
- {1} Moorings shall be placed so that objects moored to them, at full swing of their mooring or anchor line, will be no closer than 10 feet to the projection of the adjacent property line from the shoreline, and no more than 75 feet from the shoreline itself or unless it can be clearly demonstrated that additional length from shore is necessary in order to reach adequate water depth for proposed boat mooring.
 - {2} Moorings shall be placed such that the vessel moored or anchored, at full swing of its mooring or anchor line, will not be within seventy five (75) feet from any dock or other marine facility. Adequate separation shall be maintained between all moored and anchored vessels to provide for the safety of persons and property and suitable access to and from vessels.

§ 325-51. Application Materials Submitted to Other Agencies.

The Planning Board may require that the applicant submit a copy of any and all application materials submitted to the U. S. Army Corps of Engineers, the Department of Environmental Conservation or any other agency that requires a permit, license or approval for the proposed use.

ARTICLE VII
Administration and Enforcement

§ 325-52: Permits

A. No building or structure shall be erected, altered interiorly, structurally altered, moved or use instituted, until a zoning permit therefore has been issued. The exterior structural area of building or structure shall not be enlarged until a zoning permit therefore has been issued.

B. A zoning permit shall not be required for the following:

{1} Building or structures with less than one hundred (100) square feet of ground coverage.

{2} Signs permitted in residential districts listed in Article IV, §39.19 of this chapter.

{3} Likewise, no zoning permit is needed for routine maintenance and improvement that does not expand the exterior dimensions of the structure. {16} {16A}

{4} Chimneys, posts and other similar accessory uses.

C. When establishing measurements to meet the required setbacks, the measurement shall be taken from the road line, lot line, or nearest high water elevation to the closest protruding part the use or structure. This shall include projecting facilities as porches, carports and attached garages.

D. No such zoning permit shall be issued for any building, structure or use where said construction, addition and exterior expansion or use thereof would be in violation of any of the provisions of this chapter.

E. A zoning permit under this chapter shall expire one year from the date of issue if construction is not substantially started. "Substantially started," as used in this subsection, shall mean completion of the foundation, slab, or other site preparation necessary for the building or structure. {17}

F. Applications for zoning permits shall be submitted to the Code Enforcement Officer or Village Clerk and shall include four (4) copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the distance from the building line to all lot lines, road lines, waterfront property lines, streams and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Village Clerk.

16. Editor's Note: Amended at time of adoption of Code {see Ch. 1, General Provisions, Art. II}

16A. A Building Permit is needed for installation/replacement of a roof.

17. Editor's Note: Amended at time of the adoption of Code {see Ch. 1, General provisions, Art. II}

G. Zoning Permit Fees shall be determined by Village Board resolution.

H. Temporary zoning permits may be issued by the Code Enforcement Officer upon approval by the Board of Appeals, for a period not exceeding one (1) year. Such temporary permits are conditioned upon agreement by the owner or operator to remove any nonconforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time. Such permits may be renewed thirty (30) days prior to expiration for a period of one (1) year; at which time the nonconforming structures shall come into compliance.

§ 325-53: Certificate of Compliance

- A. No land shall be occupied or used and no building or structure hereafter used, or changes made in the use, until a certificate of compliance shall have been issued by the Code Enforcement Officer stating that the building, structure or proposed use thereof complies with the provisions of this chapter.
- B. All certificates of compliance shall be applied for coincidentally with the application for a zoning permit. Said certificate shall be issued within twenty (20) days after the erection, alteration or use shall have been approved as complying with the provisions of the law.
- C. The Code Enforcement Officer shall maintain a record of all certificates and copies furnished upon request to any person having a proprietary or tenancy interest in the property affected.
- D. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary certificate of compliance for not more than thirty (30) days for a part of a building or lot may be issued by the Enforcement Officer. Such temporary certificate may be renewed upon request for an additional thirty (30) days.

§ 325-54: Code Enforcement Officer

- A. This chapter shall be enforced by the Code Enforcement Officer, who shall be appointed by the Village Board.
- B. The duties of the Code Enforcement Officer shall be as follows:
 - {1} Approve and/or deny zoning permits.
 - {2} Scale and interpret zone boundaries on zoning maps.
 - {3} Approve and/or deny certificates of occupancy.
 - {4} Refer appropriate matters to the Zoning Board of Appeals, Planning Board, or Village Board of Trustees.
 - {5} Revoke zoning permits where there is false, misleading or insufficient information. Revoke zoning permits and/or certificates of compliance where the applicant has varied from the terms of the application.
 - {6} Investigate violations, issue stop work orders and refer violations to the Village Justice or the Village Board.
 - {7} Report at regular Village Board meetings the number of zoning permits and certificates of compliance issued and fees collected.

§ 325-54.1 Alternate Members {Added 6-18-2013 by L.L. No. 3-2013}

A. Planning Board

{1} The Village of Dexter Board of Trustees hereby enacts this subsection to provide a process for appointing alternate members to the Planning Board. The alternate member positions of the Board will insure the presence of a quorum for meetings in the event that a regular member {s} is absent due to a conflict of interest or unable to serve any reason.

{2} The Mayor, subject to the approval of the Board of Trustees, may appoint two alternate members to the Planning Board.

{3} Alternate members shall be appointed for a term that will expire at the Village's next organizational meeting. Subsequently, alternate members will be appointed for a term at the organizational meeting.

{4} All provisions of State Law and Village Law relating to the Planning Board, member training and continuous education, attendance, conflict of interest, eligibility, vacancy in office, removal, compatibility of office, services on other Boards, as well as any provision of a local ordinance, shall apply to alternate members. Alternate members of the Board shall be residents of the Village.

{5} The Chairperson of the Planning Board may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the Board or in the absence of a member. When designated, an alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes.

B. Zoning Board of Appeals

{1} The Village of Dexter Board of Trustees hereby enacts this subsection to provide a process for appointing alternate members of the Zoning Board of Appeals. The alternate member positions of the Board will insure the presence of a quorum for meetings in the event that a regular member {s} is absent due to a conflict of interest or is unable to serve for any reason.

{2} The Mayor, subject to the approval of the Board of Trustees, may appoint two alternate members to the Zoning Board of Appeals.

{3} Alternate members shall be appointed for a term that will expire at the Village's next organizational meeting. Subsequently, alternate members will be appointed for a term at the organizational meeting.

{4} All provisions of State Law and Village Law relating to Zoning Board of Appeals, member training and continuous education, attendance, conflict of interest, eligibility, vacancy in office, removal, compatibility of office, service on other Boards, as well as any provision of a local ordinance, shall also apply to alternate members. Alternate members of the Board shall be residents of the Village.

{5} The Chairperson of the Zoning Board of Appeals may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the Board or in absence of a member. When designated, an alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes.

§ 325-55: Zoning Board of Appeals

- A. Creation, appointment and organization: A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members. The Village Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with the Village Law and shall appoint a Chairman and Vice-Chairman. The Board of Appeals shall select a Secretary and prescribe rules for the conduct of its affairs.
- B. Powers and Duties: The Board of Appeals shall have all the power and duties prescribed by Article 7 of Village Law, and by this chapter, which are more particularly specified as follows:
- {1} Interpretation: Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
- {2} Variances: To vary or adapt the strict application of any of the requirements of this law. Variances must meet the criteria of Village Law Article 7, legal parameters and the regulations and intent of this chapter. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
- C. Procedure: The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Village. Every appeal or application shall refer to the specific provisions of the law being appealed, set forth the exact interpretation that is claimed, the use for which the permit is sought or the details of the appeal that is applied for, and the grounds on which it is claimed that the appeal should be granted. A hearing shall be held for all variance actions in conformance with the requirements of the Village Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying a permit. The reasons for the action shall be set forth in the minutes of the Board of Appeals meeting at which the action is taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public.

§ 325-56: Planning Board

- A. Creation, appointment and organization: A Planning Board shall consist of seven (7) members. The Village Board shall appoint the members of the Planning Board on a staggered term basis in conformance with the Village Law and shall appoint a Chairman and Vice Chairman. The Planning Board shall select a secretary and shall prescribe rules for the conduct of its affairs.
- B. Powers and Duties: The Planning Board shall have the following powers and duties with respect to this law:
1. Review and approval, site plans and special use permits. **{amended 6-17-2009 by L.L. No.2-2009}**
 2. Review and approval of subdivisions under the Village's Subdivision Law under Chapter 265, Subdivision of Land, of the Code of the Village of Dexter. **{added 6-17-2009 by L.L. No. 2-2009}**
 3. Submittal of Advisory Opinions to the Village Board on proposed amendments to this chapter. **{added 6-17-2009 by L.L. No. 2-2009}**

- C. Procedure: The Planning Board shall act in strict accordance with the procedure specified by this chapter. All applications made shall be made in writing on forms prescribed by the Village.
- D. The Planning Board's review, approval and/or recommendations shall be in writing. **{amended 6-17-2009 by L.L. No. 2-2009}**
- E. Planning Board members are required to obtain (4) hours of training annually in programs approved by the Village of Dexter unless waived by the Village Board. **{added 6-17-2009 by L.L. No. 2-2009.}**

§ 325-57: Board of Trustees

Through this local chapter the Village Board of Trustees is empowered to regulate and restrict the height, size of buildings and other structures, the percentage of lot that may be occupied, the location and use of buildings, structures and land for trade, industry, residences or other purposes.

§ 325-58: Violations and Penalties

A. Whenever a violation of this law occurs, the Code Enforcement Officer, Village or any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Enforcement Officer, who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Enforcement Officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within a specific time, the Village shall take action to compel compliance.

B. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists the enforcement of any of the provisions of this law shall upon condition be deemed guilty of a violation and subject to a fine not exceeding two hundred fifty dollars (\$250.00) and/or thirty (30) days imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter. **{Amended 6-21-2011 by L.L. No. 1-2011}**

C. The Village Board may maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Chapter.

§ 325-59: Amendments {19}

The Village may amend, supplement or repeal the regulations and provisions of this chapter after public notice and public hearing as provided for in Village Law §7-708 and Municipal Home Rule Law §239M. All proposed changes shall be referred to the Jefferson County Planning Board for their recommendation and for a report prior to final action. The Village Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- A. By publishing at least ten (10) days prior to the time of such hearing in the Village's Official Newspaper.
- B. By referring the proposed amendments to the Clerk of the County Legislative and the clerks of neighboring towns and villages and to any housing authority or state park commission whose property might be affected at least ten (10) days prior to public hearing.
- C. In case of a protest against such change signed by the owners of at least twenty (20) percent of the parcels of land located within a radius of 300 feet of a center of such proposed change or of an adverse recommendation by the County Planning Board, the vote of the Village Board must comply with Article 7 §7.708 of Village Law.

§ 325-60: Interpretation and Separability

- A. Interpretation and application of the provisions of this law shall be minimal requirements adopted for the promotion of the public health safety or the general welfare.
- B. Should any section or provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 325-61: Conflicts

Whenever any provision of this chapter and any other provision of law, whether set forth in this chapter or any other law, ordinance, or resolution of any kind, impose overlapping or contradictory regulations over the use of land, or over the use or bulk of buildings or other structures, or contain any restrictions covering the same subject matter, that provision which is more restrictive or imposes higher standards or requirement shall govern.

19. Editor's Note: amended at time of adoption of Code {see Ch. 1, General Provisions, Art. II}

ARTICLE VIII
Nonconformities

§ 325-62. Intent

The intent of this article is to recognize certain uses, lots of record and structures which legally existed at the time of enactment of this chapter and which would be prohibited or unreasonably restricted by the provisions, regulations or standards herein.

§ 325-63: Nonconforming Uses

Any use of land or structures which by the enactment of this law is made nonconforming may be continued on the premises and to the extent pre-existing provided that:

- A. No nonconforming use shall be expanded, extended or otherwise increased so as to occupy a greater area of land than was committed to the nonconforming use at the time of such enactment;
- B. No nonconforming use shall be extended so as to displace a conforming use;
- C. Any nonconforming use of land or structures which has for any reasons been discontinued for a period of one (1) year, or not used consistently 24 out of 36 months shall not be re-established and only conforming uses shall be thereafter permitted. {20}
- D. A nonconforming use of land or structure once changed to a conforming use shall not be permitted to change back to a nonconforming use.

§ 325-64: Nonconforming Lots of Record

Any lot of record held under separate ownership prior to the enactment of this chapter and having lot width or lot depth or both less than the minimum area requirements set forth in this chapter may be developed with any permitted use listed for the zone in which such nonconforming lot is located without requiring a variance provided that such lot:

- A. Does not adjoin other property held by the owner where sufficient land could be transferred to eliminate the nonconformity without reducing such other property to nonconforming dimensions;
- B. Has sufficient area, width and depth to undertake development that will:
 - 1. Maintain the required minimum front setback;
 - 2. Meet or exceed at least two-thirds (2/3) of the required minimum side and rear setbacks;
 - 3. Not exceed the maximum permitted lot coverage; and
 - 4. Otherwise satisfies all applicable provisions of this law.

20. Editor's Note; Amended at time of adoption of Code {see Ch.1, General Provisions, Art. II}

§ 325-65: Nonconforming Structures

Any pre-existing structure, which by the enactment of this chapter, is made nonconforming may be used for any permitted use listed for the zone in which such structure is located, provided that it shall not be enlarged or extended so as to increase its nonconformance in terms of setback or lot coverage. Nothing under the provisions of this chapter shall prevent the repair, restoration or reconstruction of a nonconforming structure damaged by fire or other hazard, provided that:

A. Its owner or owners can demonstrate that construction, erection or location of a conforming structure is either:

1. Physically impractical due to the size, configuration or condition of the lot; or
2. A physical hardship; and
3. Such repair, restoration or reconstruction is undertaken:
 - {a} Only on the premises and to the extent previously occupied by the nonconforming structure, and
 - {b} Within one (1) year for the date on which the damage or destruction occurred.

ARTICLE IX Special Use Permits

§ 325-66. Purpose

It is recognized that there are certain land uses that are likely to result in adverse impacts upon surrounding properties unless certain design features are employed. It is further recognized that a particular lot possesses a set of physical characteristics that detract from or add to that lot's development potential. The purpose of the special use permit provisions of this local law is to allow flexibility in both the review and development of particular uses. In so doing these provisions ensure that the potential for adverse impacts to surrounding properties and the Village are minimized and that the physical characteristics of a particular lot are fully considered in the project design.

§ 325-67: Applicability

The provisions of this article apply to all uses requiring special use permits.

§ 325-68: Procedure

A. The applicant may request a pre-submission conference with the Planning Board prior to formal application submittal. This conference can be used to discuss special use permit review procedure/criteria and other zoning matters. The Planning Board shall honor this request and convene such a conference.

- B. Applications for special use permits shall be submitted to the Planning Board at its regularly scheduled meeting (s). To be considered at a meeting, applications must be submitted at least seven (7) days in advance of the meeting. Once an application has been received, it shall be transferred to the Planning Board for review and recommendation. **{amended 6-17-2009 by L.L. No. 2-2009} {21}**
- C. Within sixty-two (62) days from the day an application is received and considered complete, the Planning Board shall conduct a public hearing. A notice of the Public Hearing shall be published in the Village's Official Newspaper at least five (5) days prior to the date of the hearing. **{Amended 6-17-2009 by L.L. No. 2-2009}**
- D. Final decision of the Planning Board shall be made in writing within sixty-two (62) days following the close of the public hearing. Notwithstanding the foregoing provisions, the time at which the Planning Board must take action may be extended by mutual consent of the applicant. All decisions shall be immediately filed in the Office of the Village Clerk and a copy mailed to the applicant. **{Amended 6-17-2009 by L.L. No. 2-2009}**
- E. The Planning Board may attach conditions to its approval for special use permit. **{amended 6-17-2009 by L.L. No. 2-2009}**
- F. The Village Clerk shall refer all special use permit applications to the Jefferson County Planning Board for review when required under General Municipal Law Article 12-B.

§ 325-69: Information to be submitted by Applicant

- A. Application for review shall be made to the Planning Board by all owners of the subject property. The applicant shall submit all information necessary for the Planning Board to review the application. **{Amended 6-17-2009 by L.L. No. 2-2009}**
- B. Unless specially waived by the Planning Board, the following information shall be provided by the applicant:
- {1} Name, addresses and the phone numbers of all owners and of the persons or firms responsible for the preparation of all drawings, maps or depictions.
 - {2} Tax Parcel Number for the property involved, where tax parcel includes more than one legally described lot, the applicant shall provide the deeds or other legal references to locate and identify the various lots.
 - {3} Maps or drawings of the proposed buildings, structures, infrastructure, landscaping and other improvements which show in detail:
 - {a} Date, magnetic and approximate North Point, written and graphic scale.
 - {b} Boundaries of the lot plotted to scale, including distances, bearings and areas.
 - {c} Location and ownership of all adjacent lands.
 - {d} Location, name and existing width and right-of-way of adjacent roads.

21. Editor's Note: This chapter also repealed original Subsection C, regarding the Planning Board's written report of recommendations, which immediately followed this subsection.

{e} Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use located either on the site or on adjoining property.

{f} Location, size and detailed design of the following: existing and proposed buildings, driveways, roads, curb cuts, parking, outdoor storage, sidewalks or pedestrian paths, draining facilities, utilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping and screening.

{g} Façade drawing with elevations of all proposed buildings from finished grades.

{4} Written plans for controlling soil erosion and sedimentation during construction.

{5} Written and depicted plans for grading and drainage showing existing and proposed contour lines at one-foot intervals or less, and also showing all high-water levels, floodplain and other natural features.

{6} Written designation of the amount of gross floor area {measured from interior dimensions} proposed for each non-residential use.

{7} An environmental assessment form {EAF} or draft environmental impact statement {EIS} and other documents where required pursuant to 6 NYCRR Part 617 {SEQRA}.

{8} Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any federal, state or county permits required for the project's execution.

{9} All applicants shall deposit with the Village Clerk monies covering the applicable zoning fee as set by resolution of the Board of Trustees from time to time.

10. Location and design of any structures, facilities and processes that potentially impact on the quantity of the ambient air, the quantity of the impact and the mitigating measures that will be taken to reduce the adverse impacts on the quantity of the ambient air.

11. Traffic volume generation and circulation plans both on and off the proposed project site.

12. Written projected construction schedule and staging phases with timetable for implementation.

§ 325-70: General Performance Review Criteria {amended 6-17-2009 by L.L. No. 2-2009}

The Planning Board's review and consideration of the special use applications shall consider any matters related to the public welfare in determining whether a special permit use is appropriate at a particular location. Particularly, the Planning Board shall take into account the following considerations:

A. Status of any federal state or county permits required.

B. Environmental (including physical, social or economic factors) impact on the community and adjacent areas.

- C. Compatibility with the general plan.
- D. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- E. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- F. Location, arrangement, appearance and sufficiency of off street parking and loading.
- G. Adequacy and arrangement of pedestrian traffic access and circulation, walkway surfaces, control of intersections with vehicular traffic and overall pedestrian convenience.
- H. Adequacy of storm water and drainage facilities.
- I. Adequacy of water supply and sewage disposal facilities.
- J. 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 maximum retention of vegetation.
- K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- L. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- M. Conformance with all other provisions of this chapter.
- N. Location, arrangement and design of any ventilation or exhaust device or other heat, moisture, or odor producing process or use.
- O. The scenic, historical and cultural attributes of the site shall be preserved to the extent practical. There shall be particular consideration given to the preservation of existing historic sites or structures on the National Register of Historic Places and areas of archaeological significance shall not be endangered by the development.

§ 325-71: Guaranties for Installation Maintenance of Improvements.

A. Installation guaranty. In order that the village has the assurance that the construction and installation of infrastructure improvements, including but not limited to storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, access facilities and road surfaces will be constructed, the Planning Board shall require the applicant complete said improvements before final approval is granted, or the applicant shall enter into one of the following agreements with the Village. {amended 6-17-2009 by L.L. No. 2-2009}

{1} Furnish bond with the Village named as obligee executed by a surety company equal to the cost of construction of such improvements shown on the plans and based on an estimate furnished by the applicant and approved by the Board of Trustees. Any such bond shall require approval of the Board of Trustees and the Village Attorney as to form, sufficiency, manner of execution and surety; or

{2} In lieu of the bond, the applicant may deposit cash, certified check or an irrevocable bank letter of credit, a certificate of deposit or other forms of financial security acceptable to the Board of Trustees and the Village Attorney. Acceptable substitutes, if furnished, shall be kept on deposit with the Village for the duration of the bond period; or

{3} All plans and specifications for the improvements and infrastructure shall be approved by the Department of Public Works Superintendent or an engineer hired by the Village.

B. Maintenance guaranties. In order that the Village has the assurance that the construction and installation of the infrastructure and improvements, including but not limited to storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, access facilities and road surfacing have been constructed in accordance with plans and specifications, the Board of Trustees shall require that the applicant shall enter into one of the following agreements with the Village:

{1} Furnish a maintenance bond with the Village names as obligee executed by a surety company equal to the cost of construction of such improvements and infrastructures as built or constructed and approved by the Department of Public Works Superintendent or engineer retained by the Village. Any such bond shall be for the minimum period of one year and approved by the Board of Trustees and the Village Attorney as to form, sufficiency, manner of execution and surety; or

{2} In lieu of the bond, the applicant may deposit cash, certified check, or an irrevocable bank letter of credit, a certificate of deposit or other forms of financial security acceptable to the Board of Trustees and the Village Attorney. Acceptable substances, if furnished, shall be kept on deposit with the Village for the duration of the bond period; or

{3} After construction of the improvements and infrastructure, they shall be approved by the Department of Public Works Superintendent or an engineer hired by the Village.

§ 325-72: Effect On Other Provisions.

To the extent that the provisions of this Article or any other provisions of this local law are in conflict or inconsistent with any of the provisions of Article 7, and in particular §7-725-b of the Village Law, this Local Law amends and supersedes said provisions of the Village Law pursuant to §10 of the Municipal Home Rule Law.

CHAPTER 314

WATERFRONT CONSISTENCY REVIEW

§314-1.	Title	§314-10	Environmental and Waterfront Assessment Forms
§314-2	Purpose	§314-11	Determination of Significance
§314-3	Statutory Authority	§314-12	Preparation, filing, circulation and availability of documents
§314-4	Applicability	§314-13	Determination of Consistency with policies
§314-5	Severability	§314-14	Enforcement
§314-6	When Effective; Filing	§314-15	Penalties for Offenses
§314-7	Definitions		
§314-8	Lead Agency		
§314-9	Initial		

{HISTORY: Adopted by the Board of Trustees of the Village of Dexter 8-21-1996 by L.L. No. 2-1996 {Ch. 9A of the 1971 Code}. Amendments noted where applicable.}

General References

Uniform Construction Codes – See Ch. 60
Flood Damage Prevention – See Ch. 102

Zoning – See Ch. 325

§314-1. Title

This chapter will be known as the “Village of Dexter Waterfront Consistency Review Law.”

§314-2. Purpose

The purpose of this chapter is to provide for the protection and beneficial use of natural and man-made resources within the Village Local Waterfront Area {LWA} ensuring that certain actions to be undertaken, approved or funded by Village agencies will be consistent with the policies and purposes of its Local Waterfront Revitalization Program {LWRP}.

§314-3. Statutory Authority

This chapter is adopted under authority of the Municipal Home Rule Law and Article 42 of the Executive Law.

§314-4. Applicability

All Boards, departments, offices, other bodies or officers of the Village of Dexter must comply with this chapter to the extent applicable, prior to carrying out, approving or funding any action. The provisions of this chapter shall only apply while there is in existence a LWRP that is approved by the Secretary of State pursuant to Article 42 of the Executive Law.

§314-5. Severability

The provisions of this chapter are severable. If any part of this chapter is found invalid, such finding will apply only to the particular provision and circumstances in question. The remainder of this chapter, and the application of this disputed provision to other circumstances will remain valid.

§314-6. When Effective; filing

A. This chapter shall take effect immediately after the following have occurred:

{1} Filing of the chapter in the office of the Secretary of State in accordance with §27 of the Municipal Home Rule Law.

{2} Approval of the Village of Dexter Local Waterfront Revitalization Program by the Secretary of State in accordance with Article 42 of the Executive Law of New York State.

B. A copy of this chapter shall be filed with the Commissioner of the Department of Environmental Conservation.

§314-7. Definitions

A. As used in this chapter, the following terms shall have the meanings indicated and shall have the same effect and meaning as those terms are used and defined in 6 NYCRR Part 617.

ACTION: Any type 1 or unlisted action, but not including Type II.

EAF: Environmental Assessment Form

EIS: Environmental Impact Statement

LEAD AGENCY: An agency principally responsible for carrying out, funding or approving an action and therefore responsible for determining whether an EIS is required in connection with the action and for causing the preparation and filing of the EIS if one is required.

LOCAL WATERFRONT AREA {LWA}: That portion of the New York State Coastal Area within the Village of Dexter as delineated in the Village of Dexter Local Waterfront Revitalization Program.

LOCAL WATERFRONT REVITALIZATION PROGRAM {LWRP}: The local program to implement the New York State Coastal Management Program with the Village of Dexter as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

STATE ENVIRONMENTAL QUALITY REVIEW ACT {SEQR} OR PART 617: Article 8 of the Environmental Conservation Law, as described from time to time, and the applicable regulations promulgated thereto at 6 NYCRR Part 617, as amended from time to time.

VILLAGE: The Village of Dexter

VILLAGE BOARD: The Board of Trustees of the Village of Dexter.

WAF: Waterfront Assessment Form

B. All other terms for which definitions are given in the SEQR and/or Part 617 shall have the same meanings in this chapter.

§314-8. Lead Agency

A. In the event an involved agency is other than a Village involved agency {e.g., Board of Trustees, Planning Board, or Zoning Board of Appeals}, the lead agency is determined and designated as provided in Part 617.

B. Determination of Lead Agency

{1} In the event there is no other involved agency other than a Village involved agency, e.g., Board of Trustees, Planning Board, and Zoning Board of Appeals}, the following Village involved agencies shall act as Lead Agency in the following order:

- {a} Board of Trustees
- {b} Planning Board
- {c} Zoning Board of Appeals

{2} Such Village involved agencies shall act as Lead Agency only if it is truly an involved agency.

{3} In the event that there is another Village involved agency other than those listed above in this section, the foregoing order of preference of lead agency shall apply. In the event the only Village involved agencies are other than the foregoing named Village involved agencies, then the Lead Agency shall be determined and designated as provided in Part 617.

§314-9. Initial Review

In complying with the initial review requirements of Part 617, the Community Development Coordinator or, in absence of a Community Development Coordinator, the Village Clerk, shall:

A. Advise each applicant, when an application is involved, and each board, department, office, other body or officer as to whether a proposed action is subject to the provisions of SEQR and this chapter.

B. Provide applicants, boards, departments, offices, other bodies or officers with the appropriate assessment forms.

§314-10. Environmental and Waterfront Assessment Forms

When the initial review determines that such Type I or unlisted action is contemplated within the local waterfront area {LWA}, the full or short-form EAF shall be accompanied by a waterfront assessment form {WAF}.

§314-11. Determination of Significance

The Lead Agency must make a determination of environmental significance of the action. This determination must be based on the full or short-form EAF or DEIS and the accompanying WAF, as the case may be, and on such other information as the lead agency may require.

- A. When the EIS is prepared for a proposed action located within the LWA, it must also contain an identification of the applicable policies and purposes of the Village of Dexter LWRP and a discussion of the effects of the proposed action on such policies.
- B. When only an EAF with a WAF is to be prepared, it shall be accompanied by a statement identifying all applicable policies of the LWRP and a discussion of the potential effects of the proposed action on such policies.

§314-12. Preparation, Filing, Circulation and Availability of Documents

All notices, EAFs, WAFs, Draft EISs, Final EISs and all other documents shall be prepared, filed, circulated, and made available as prescribed under Part 617 and this Chapter.

§314-13. Determination of Consistency with Policies

- A. Actions to be undertaken within the LWA shall be consistent to the maximum extent practicable with the following policy standards and conditions, which are derived from and further explained and described in Section III of the Village of Dexter LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency requirement, such Village involved agencies shall use the procedural requirements of Subsection A {1} or {2} of this section, whichever applies:

{1} Where a determination is made that an action may have a significant effect on the environment, the consistency of such action shall be determined as part of the findings required under Part 617.

{2} Where a determination is made that an action will not have a significant effect on the environment, the consistency of such action shall be determined as part of the determination of non-significance and issuance of a negative declaration by the lead agency.

- B. The action shall be consistent with the Village of Dexter LWRP policy to:

{1} Revitalize the deteriorated and underutilized waterfront areas of Dexter {Policies 1, 1A, 1B, 1C and 1D.}

{2} Retain and promote commercial and recreational water-dependent uses. {Policies 2, 2A, 2B and 2C}

{3} Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policies 5, 5A and 5B).

{4} Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7 and 8).

{5} Maintain and expand recreational use of fish and wildlife resources and ensure protection of such resources {Policy 9}.

{6} Minimize flooding and erosion hazards through nonstructural means, carefully selected, long term structural measures and appropriate siting of structures. {Policies 11, 11A and 17.}

{7} Safeguard economic, social and environmental interests in Dexter's coastal area when major actions are undertaken {Policy 18}.

{8} Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment {Policies 19, 19A, 19B, 19C, 20, 20A, 20B, 21, 21A and 22.}

{9} Protect and restore historic and archeological resources {Policy 23}.

{10} Protect and upgrade scenic resources {Policy 25}.

{11} Prevent ice management practices which could interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitat, or increase shoreline erosion {Policy 28}.

{12} Protect surface and ground waters from direct and indirect discharge of pollutants and from overuse {Policies 31, 32, 33, 34, 35 and 37}.

{13} Perform dredging and dredge spoil in a manner protective of natural resources. {Policy 35}

C. Inconsistency with policy standards; determination of effect of action.

{1} When it is determined, pursuant to Subsections A{1} or {2} and B of this section, that the proposed action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Village Board makes findings with respect to the proposed action that:

{a} No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;

{b} The action would be undertaken in a manner which will minimize all adverse effects on such policy standards and conditions;

{c} The action will advance one or more of the other LWRP policy standards and conditions; and

{d} The action will result in an overriding Village, regional, or statewide public benefit.

{2} Such finding shall constitute a determination that the action is consistent with LWRP policy standard and conditions.

§314-14. Enforcement

The Village Code Enforcement Officer shall be responsible for enforcing this chapter. No work or activity on a project in the coastal area which is subject to review under this chapter shall be commenced or undertaken until the Code Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the Village's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this chapter or any conditions imposed thereunder, the Code Enforcement Officer shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

§314-15. Penalties for Offenses

A. A person who violates any of the provisions of or who fails to comply with any conditions imposed by this chapter shall have committed a violation, punishable by a fine not exceeding \$500.00 for a conviction of a first offense and punishable by a fine of \$1000.00 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

B. The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Village may also enforce this chapter by injunction or other civil proceeding.