

Chapter 300. Zoning and Land Use

Article X. District Regulations, Use and Area Requirements

§ 300-35. Residential districts.

A. District purposes.

- (1) General purposes of all residential districts. The residential zoning districts contained in this section are intended to:
 - (a) Provide appropriately located areas for residential development that are consistent with the Dobbs Ferry Vision Plan and with public health, safety, and general welfare;
 - (b) Allow for a variety of housing types and community amenities that meet the diverse physical, economic, and social needs of residents; and
 - (c) Respect the scale and character of existing residential neighborhoods and surrounding areas.
- (2) Specific purposes of residential districts.
 - (a) One-Family Residential (OF) Districts. The primary purpose of the OF Districts is to maintain the character and scale of established neighborhoods characterized by one-family houses on individual lots and to allow for the appropriate development and redevelopment of lots in those areas. Clustered development may be appropriate in some areas with OF designation. The Zoning Ordinance provides a range of OF Districts (OF-1 to OF-6) which are differentiated primarily on the basis of minimum lot area and coverage requirements.
 - (b) Mixed-Density Residential (MDR) Districts. The primary purpose of the MDR Districts is to maintain the character and scale of established neighborhoods characterized by a mixture of detached one-family houses, two- and three-family homes, and multifamily housing, often found in large, older buildings which have been reorganized into apartments, and to allow for the appropriate development and redevelopment of lots and existing buildings in those areas. The districts are also intended to provide a transition between OF Districts and higher-density apartment districts or commercial districts. The Zoning Ordinance includes three types of MDR Districts intended to address the current and desired character of different areas of the Village.

[1] MDR-1 allows for a mixture of one-, two- and three-family dwelling units and townhouses with a minimum lot area of 2,500 square feet per dwelling unit is required. See Appendix B, Table B-2.^[1]

[1] *Editor's Note: Appendix B is included at the end of this chapter.*

[2] MDR-2 allows for a more intense mixture of dwelling units, including townhomes and small multifamily buildings with a maximum of eight units per building. A minimum lot area of 800 square feet per dwelling unit is required. See Appendix B, Table B-2.^[2]

[2] *Editor's Note: Appendix B is included at the end of this chapter.*

[3] MDR-H is intended to reinforce the existing pattern of larger historic homes and estates that have been subdivided into multiple dwelling units while maintaining the exterior appearance of a single-family home. A minimum lot area of 2,500 square feet per dwelling unit is required. See Appendix B, Table B-2.^[3]

[3] *Editor's Note: Appendix B is included at the end of this chapter.*

- (c) Multifamily (MF) Districts. The primary purpose of the MF Districts is to maintain the character and scale of existing multifamily housing complexes. Although the districts accommodate a wide range of housing types, they are primarily intended to accommodate moderate- to high-density, multiunit residential buildings in areas where such development already exists. The Zoning Ordinance includes four MF Districts (MF-1, MF-2, MF-3 and MF-4). These districts are differentiated primarily on the basis of allowed density (minimum lot area per unit).
- (d) Broadway (B) District. The purpose of the Broadway (B) District is to support the continued use of large homes, many built pre-1900, for multifamily and professional offices. Adaptive reuse that retains the historic character of the existing buildings is encouraged.

B. Residential design guidelines. Conformance with the Residential Design Guidelines, Appendix G,^[4] as adopted by the Board of Trustees, is encouraged where applicable and shall be considered as part of the site plan review criteria, as well as the basis for the Architectural and Historic Review Board's evaluation.

[4] *Editor's Note: Appendix G is included at the end of this chapter.*

C. Use requirements. Permitted uses and dwelling types in each residential district shall be as specified in Table A-1.^[5]

[5] *Editor's Note: Table A-1 is included at the end of this chapter in Appendix A.*

D. Area requirements.

(1) Minimum lot area. The minimum lot area shall be the greater of either the minimum specified in Table B-1 or B-2^[6] (depending on the underlying zoning district) or the average lot area of the existing lots within 400 feet of the subject property, not including any lands in the OS-3 Zoning District.

[Amended 6-14-2011 by L.L. No. 6-2011]

[6] *Editor's Note: Tables B-1 and B-2 are included at the end of this chapter in Appendix B.*

(2) Minimum lot area per dwelling unit — residential districts. The minimum lot area per dwelling unit specified in Table B-2 shall be provided, regardless of whether multiple dwelling units are located on a single lot or on individual lots. No lot shall be subdivided to form two or more lots unless each and every resulting lot meets the minimum lot area per dwelling unit required by Table B-2.^[7]

[7] *Editor's Note: Table B-2 is included at the end of this chapter in Appendix B.*

(3) Minimum lot width, depth and coverage. The minimum lot width and depth shall be the greater of the minimum specified in Tables B-1 or B-2 (depending on the underlying zoning district) or the minimum specified in Table B-3.^[8]

[8] *Editor's Note: Tables B-1, B-2 and B-3 are included at the end of this chapter in Appendix B.*

(4) Minimum side yard setbacks. The minimum side yard setbacks (individually and combined) shall be the greater of the minimum specified in Tables B-1 or B-2 (depending on the underlying zoning district) or the minimum specified in Table B-4.^[9]

[9] *Editor's Note: Tables B-1, B-2 and B-4 are included at the end of this chapter in Appendix B.*

(5) Minimum front yard setback. The minimum front yard setback shall be the lesser of:

(a) The prevailing front yard setback plus or minus 10% of the required minimum setback as defined by Table B-1 or B-2^[10] (depending on the underlying zoning district); or

[10] *Editor's Note: Tables B-1 and B-2 are included at the end of this chapter in Appendix B.*

(b) The minimum specified in Tables B-1 or B-2 (depending on the underlying zoning district) or the minimum specified in Table B-5.^[11]

[11] *Editor's Note: Tables B-1, B-2 and B-5 are included at the end of this chapter in Appendix B.*

(6) Maximum front yard setback. The maximum front yard setback shall be the prevailing front yard setback plus or minus 10% of the required minimum setback.

(7) Minimum rear yard setback. The minimum rear yard setback shall be the greater of the minimum specified in Tables B-1 or B-2 (depending on the underlying zoning district) or the minimum specified in Table B-5.^[12]

[12] *Editor's Note: Tables B-1, B-2 and B-5 are included at the end of this chapter in Appendix B.*

(8) Maximum building height, ridge height, eave height and sky exposure plane. The maximum building height, maximum eave height, and massing of buildings in the OF and MDR-1 residential districts shall be controlled with context-based limits as described below and as specified in Table B-7.^[13]
[Amended 6-14-2011 by L.L. No. 6-2011]

(a) In single-family residential zoning districts, the maximum building height shall be the lesser of:

[1] The prevailing ridge height determined by multiplying the average existing ridge height of buildings on lots within the context limit area of the subject lot by 1.25; or

[2] The maximum building height specified in Table B-6^[14] (depending on the underlying zoning district and roof pitch). In no event, however, shall the building be required to be less than 2 1/2 stories or less than 28 feet to the ridge.

[14] *Editor's Note: Table B-6 is included at the end of this chapter in Appendix B.*

(b) In single-family residential zoning districts, the eave height shall not exceed the prevailing height determined by multiplying the average existing eave height of buildings on lots within the context limit area of the subject lot by 1.15. In no event, however, shall the building be required to have an eave height of less than 22 feet or be permitted to have an eave height of more than 28 feet.

(c) Anomalies identified by the Architectural and Historic Review Board, consisting of existing buildings with unusually high or unusually low ridges and/or eaves, may be excluded from the calculations used to determine the average ridge or average eave heights above.

(d) In any residential district where the maximum building height is limited to 2 1/2 stories, no portion of the building, except for chimneys and dormers seven feet or less in width, not to exceed a total aggregate width of 33% of the overall length of the building wall below that roof on which the dormers sit, shall penetrate the sky exposure plane.

[13] *Editor's Note: Table B-7 is included at the end of this chapter in Appendix B.*

(9) Maximum site coverage and impervious surface area. The maximum site coverage and impervious surface area shall be as specified in Table B-1, B-2 or B-3^[15] (depending on the underlying zone district).

[15] *Editor's Note: Tables B-1, B-2 and B-3 are included at the end of this chapter in Appendix B.*

§ 300-36. Downtown districts.

A. District purposes.

(1) General purposes of all downtown districts. The downtown districts are intended to accommodate retail, service, residential and commercial uses and to ensure that business and commercial-zoned areas are compatible with the character of existing neighborhoods. The downtown districts are also intended to ensure the preservation of the unique character and quality of life in the downtown area by encouraging compatible redevelopment and infill development.

(2) Specific purposes of commercial districts.

(a) Downtown Business (DB) District. The purpose of the Downtown Business (DB) Zoning District is to maintain the existing character, scale and mix of uses in the downtown core that allow it to serve as the Village's meeting place while encouraging appropriate redevelopment that adds to the civic and economic vitality of the community. A mix of uses, including residential uses above nonresidential establishments, is encouraged. In order to encourage a pedestrian-friendly environment, flexible standards are provided for meeting parking requirements.

(b) Downtown Transition (DT) District. The purpose of the Downtown Transition (DT) Zoning District is to maintain the existing character, scale and mix of uses along Lower Main Street (below the Library) as a transition between the more intensive Downtown Business District and the surrounding residential areas. Residential uses are permitted on both the ground floor and above nonresidential establishments. In addition, the DT Zoning District may be applied to other commercial areas that serve surrounding residential neighborhoods.

DOBBS FERRY CODE

Table B-6: Residential Building Height (Sliding Scales)¹

[Amended 8-22-2017 by L.L. No. 6-2017]

Roof Pitch (Rise/Run)	0 to 0.25	0.25 to 0.30	Greater than 0.30	Maximum Height to Eave
OF and MDR-1 Districts (feet)	30	33	35	28
MDR-2, B, MF-1 and MF-2 Districts (feet)	30	35	40	28
MF-3 and MF-4 Districts (feet)	35	40	42	N/A

NOTE:

¹Reference § 300-35D(8)(a)[1]-[2].

Table B-7: Residential Context Based Height and Massing Limits¹
 [Amended 6-14-2011 by L.L. No. 6-2011; 8-22-2017 by L.L. No. 6-2017]

Requirement	Set Limits	Context Based Limits
Maximum ridge height	Default 28	Maximum 1.25 times the average ridge height of buildings on lots within the context limit area subject property.
Maximum eave height	Default 22	Maximum 1.15 times the average eave height of buildings on lots within the context limit area subject property.
Sky exposure plane		A plane set an a angle of 45° projected into the lot from a point set 10 feet above a lot line with the base of the 10 feet set at the average grade height between the lot line and the building.

NOTE:

¹ Reference § 300-35D(8).

Chapter 300. Zoning and Land Use

Article II. Definitions

§ 300-14. General terms.

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

ABANDONMENT

In regards to a nonconforming use, the use or structure shall be considered abandoned/discontinued under any of the following circumstances: 1) for a period of 12 or more consecutive months the discontinuance of the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or 2) the nonconforming use has been replaced by a conforming use or changed to another use under permit from the Village; or 3) the equipment and furnishings used in furtherance of the nonconforming use have been removed from the premises for a period of 12 or more consecutive months.

ACCESS

A way or means of approach to provide vehicular or pedestrian entrance to a property.

ACCESSORY BUILDING OR STRUCTURE

A building or structure that is customarily subordinate and accessory to a principal structure or use on the same site.

ACCESSORY PARKING

Parking provided to comply with off-street parking requirements and nonrequired parking that is provided exclusively to serve occupants of and visitors to a particular use, rather than the public at-large.

ACCESSORY USE

A use that is customarily subordinate and accessory to a principal structure or use on the same site.

ADULT USE

An establishment consisting of, including or having the characteristics of any or all of the following:

A. ADULT BOOKSTORE or VIDEO STORE

An establishment having a substantial or significant portion of its stock-in-trade in books, pamphlets, magazines, and other periodicals, sculptures, photographs, pictures, slides, videotapes, sound recordings or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or genital areas, and which excludes any minor by reason of age.

B. ADULT ENTERTAINMENT CABARET

A public or private nightclub, bar, cabaret, restaurant or similar establishment, either with or without a liquor license, devoted to presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities or genital areas, or that features topless dancers, go-go dancers, strippers or similar entertainers for observation by patrons, and excludes any minor by reason of age.

C. ADULT MOTEL

A motel which excludes any minor by reason of age and which makes available to its patrons in their rooms films, slide shows or videotapes depicting or relating to sexual activities or genital areas and which, if presented in a public movie theater, would exclude any minor by reason of age.

D. ADULT THEATER

An establishment used for presenting motion pictures, films, videos or live entertainment distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or genital areas, and which excludes any minor by reason of age.

E. PEEP SHOW

A theater which presents material in the form of live shows, films or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

AFFORDABLE HOUSING FUND

A special purpose fund established by the Village with the specified goal of advancing fair and affordable housing in the Village of Dobbs Ferry. The money on deposit in such fund may be appropriated by the Board of Trustees to promote, facilitate or support the intent and scope of the affordable housing program, all in keeping with the primary goal of creating affordable housing in the Village of Dobbs Ferry. [Added 6-25-2019 by L.L. No. 2-2019]

AFFORDABLE HOUSING RULES AND REGULATIONS

A document promulgated, adopted and amended from time to time by the Board of Trustees that outlines specific processes and procedures for promoting fair and affordable housing in connection with the Village of Dobbs Ferry's affordable housing program.

[Added 6-25-2019 by L.L. No. 2-2019]

AFFORDABLE HOUSING UNIT

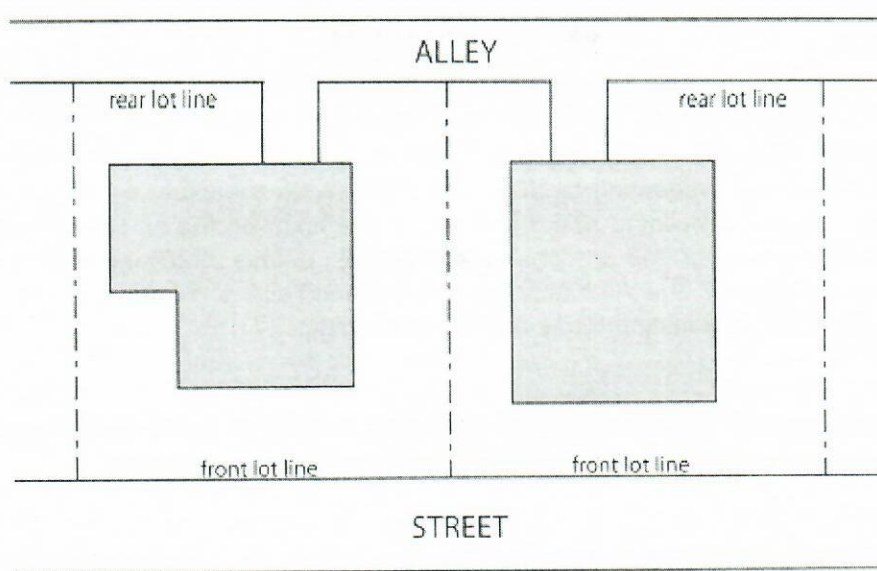
A housing unit that affirmatively furthers fair housing, is marketed in accordance with the Westchester County Fair and Affordable Housing Affirmative Marketing Plan and that is affordable under either of the two following categories:

- A. A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Westchester County as defined annually by the United States Department of Housing and Urban Development (HUD) and for which the annual housing cost of said unit, including common charges, principal, interest, taxes and insurance, does not exceed 33% of 80% of AMI, adjusted for family size; or
- B. A rental unit that is affordable to a household whose income does not exceed 60% of AMI and for which the annual housing cost of said unit, defined as rent plus tenant-paid utilities, does not exceed 30% of 60% of AMI, adjusted for family size.

[Amended 6-25-2019 by L.L. No. 2-2019]

ALLEY

A service roadway providing a secondary means of access to abutting property and not intended for general circulation. An alley is not to be considered a street.



ALTERATION

As applied to a building or structure, any change or rearrangement in the structural parts of an existing building, as well as any change in doors, windows, means of egress, or any enlargement or diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location or position to another.

ANTENNA

Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

APPLICANT

The person or entity that is submitting an application for development or the successor to the same with the legal right to do so. An applicant must have written authorization to appear on behalf of the owner of the property.

APPROVING AUTHORITY

The board responsible for granting the final approval on an application, when board approval is necessary, or otherwise the Land Use Officer.

ARCHAEOLOGICAL RESOURCE

Any material remains of past human life or activities which are of archaeological interest, and which are at least 100 years of age. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, unless found in an archaeological context.

[Added 6-13-2017 by L.L. No. 4-2017]

ARCHITECTURAL AND HISTORIC REVIEW BOARD

The Village Architectural and Historic Review Board created by this chapter.

ASSISTED CARE RESIDENTIAL FACILITY

A residential facility providing extended care to its residents, ranging from independent living units to hospital-styled rooms and wards, with or without medical facilities on site.

ATTACHED DWELLING

A dwelling unit which is attached to one or more adjoining dwellings and separated from them via a fire-rated separation such as a party wall or floor structure.

AVERAGE GRADE

The grade calculated as the midpoint between the high point and the low point of grade along an exterior building wall. For the determination of eave limits and ridge limits, as the midpoint between the high point and the low point of grade along the exterior building wall yielding the highest elevation. For the determination of the base measuring point for creating the sky exposure plane, as the midpoint between the grade at the base of a building and the grade at the point on the lot line closest to the building. All calculations shall be based on the preconstruction grades, unless otherwise directed by the Architectural and Historic Review Board. The Architectural and Historic Review Board may choose to use the post-construction grades for determining these heights and limits.

AWNING

A roof-like cover made of nylon, canvas or other such material or fabric that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BASEMENT

A portion of a building that is substantially below grade. A basement shall be considered as a story above grade where the finished surface of the floor above the basement is:

- A. More than six feet above the grade plane;
- B. More than six feet above the finished ground level for more than 50% of the total building perimeter;
or
- C. More than 12 feet above the finished ground level at any point.

BED-AND-BREAKFAST

An operation within a private, owner-occupied dwelling that provides overnight accommodations and a morning meal to guests, limited to six guest rooms.

BERM

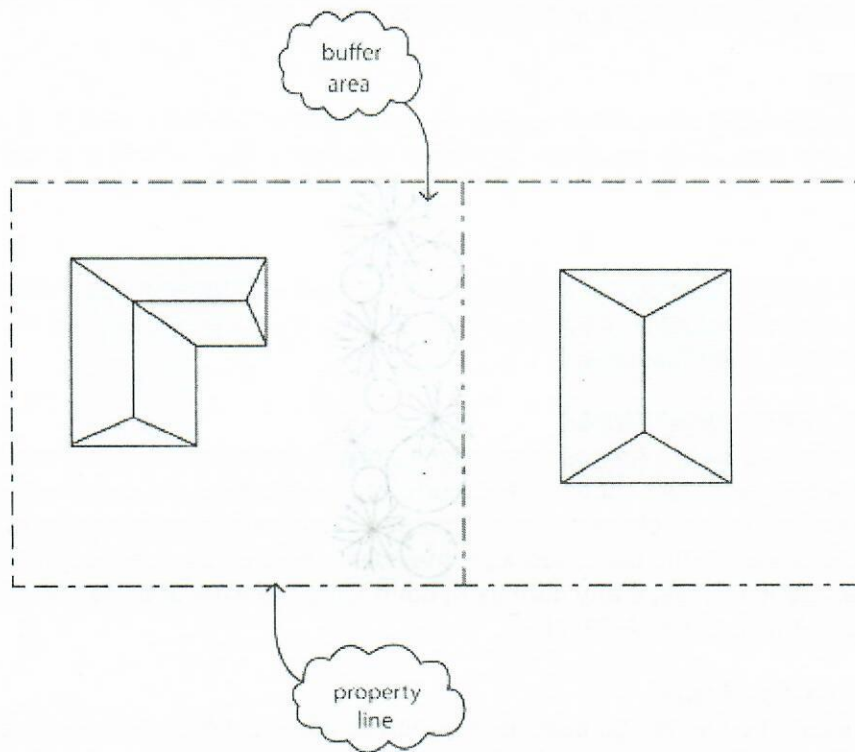
A mound of earth used to shield, screen and buffer undesirable views or to direct the flow of surface water runoff.

BOARD OF TRUSTEES

The governing board of the Village.

BUFFER or BUFFER AREA

An open space or landscaped area consisting of trees, shrubs, berms, walls, solid fencing or a combination thereof, so installed as to provide both a visual and an acoustical barrier between one use or property and another use or property.



BUILDING

A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof. When such a structure is divided into separate, freestanding parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements in districts which allow attached dwellings or multifamily dwellings.

BUILDING COVERAGE

The area of a lot covered by or permitted to be covered by principal and accessory building(s) and structures on the ground level. Percentage of building coverage is the area of principal and accessory building(s) at the ground level divided by the lot area and expressed as a percentage of the lot area.

BUILDING FRONTAGE

The linear distance of a lot measured along the exterior wall of a building, or along the front building setback line, if there is no building that faces a public street abutting the parcel of land on which the building is located.

BUILDING HEIGHT

Building height is measured as follows: The maximum height of a structure in feet shall be measured perpendicularly from the existing grade to an imaginary plane located the permitted number of feet above and parallel to the existing grade. For peaked roofs, height shall be measured to the midpoint of the roof. No portion of a peaked roof below the midpoint shall extend above said imaginary plane. For flat roofs, height shall be measured to the top of the roof. No portion of a flat roof shall extend above the imaginary plane. Parapets with a height of 36 inches or less are not included in determining building height.

[Amended 8-22-2017 by L.L. No. 6-2017]

A. Exception:

- (1) In the downtown districts, building height is measured from the midpoint of the building fronting on the public sidewalk on Broadway (Route 9), Ashford Avenue, Cedar Street or Main Street, and not from the grade plane, to the peak of a pitched roof or the top of a flat roof
- (2) In the downtown districts, the first floor of a building which provides at-grade direct access or egress onto the public sidewalk shall be considered a story, whether or not it meets the standards for being considered a basement.

BUILDING INSPECTOR/LAND USE OFFICER

The Building Inspector of the Village or his/her designee.

BUILDING LENGTH

The horizontal distance between the vertical planes of the furthest walls of a building measured along or parallel to the axis of its greatest dimension excluding roof projections such as eaves, rakes and soffits.

CELLAR

A portion of a building located substantially underground and having less than three feet of its floor-to-ceiling height above the grade plane. A cellar is not counted as a story for the purpose of height and setback regulations. (See "basement.")

CERTIFICATE OF APPROPRIATENESS

An official form issued by the Architectural and Historic Review Board stating that the proposed work on a designated historic landmark, scenic landmark, or contributing structure within an historic district is compatible with the historic character of the property and thus in accordance with the provisions of this chapter and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the Building Department may issue any permits needed to do the work specified in the certificate.
[Added 6-13-2017 by L.L. No. 4-2017]

CERTIFICATE OF OCCUPANCY

A certificate issued by the Village upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this chapter and such adjustments thereto granted by the Zoning Board of Appeals.

CLEAR-CUTTING

The cutting of 10 or more trees with a diameter of six inches or more at a height of 54 inches (diameter at breast height or DBH) above the natural grade on a given lot within a twelve-month period.

CLERK

The Village Clerk of the Village of Dobbs Ferry.

CLUSTER/CLUSTER DEVELOPMENT

See § 300-54F. A subdivision or site plan approved pursuant to this chapter, in which the applicable zoning regulations are modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands, to create a more compact development, or to meet additional goals of the Vision Plan.^[1]

COMPATIBLE/COMPATIBILITY

As set forth in § 300-19B(2)-(3), in harmony with location, context, setting, and historic character.
[Added 6-13-2017 by L.L. No. 4-2017]

COMPREHENSIVE PLAN

See "Vision Plan."

CONSERVATION ADVISORY BOARD

A Village board that provides guidance to the Village on various environmental issues.

CONTEXT-BASED LIMITS

Height and bulk limits on proposed buildings established by the prevailing standards of the existing or proposed buildings on lots within 200 feet of the subject parcel.

CONTEXT LIMIT AREA

All lots contiguous to a subject property as well as all buildings fronting on the same street as the subject property within 200 feet of the subject property.
[Added 6-14-2011 by L.L. No. 6-2011]

CONTRIBUTING PROPERTY

- (b) Lettering shall be limited to a single line that shall generally not exceed 12 feet in length.
 - (c) Lettering may be placed on the front and/or side panels of the awning, but not on the slope.
- (6) In nonresidential zoning districts, an awning may project beyond the property line of a lot into a public sidewalk only if:
- (a) The necessary permit has been issued from the Land Use Officer;
 - (b) The awning is at least seven feet six inches above the level of the sidewalk at all points;
 - (c) The awning projects no more than five feet beyond the property line;
 - (d) The awning is firmly affixed to the building and entirely supported by the building; and
 - (e) The design of the awning and any lettering, signs, lights or other appurtenances have been approved by the Architectural and Historic Review Board and Land Use Officer.

§ 300-51. Tree removal permits.

- A. Applicability. An application for the removal of one or more trees when part of another application, such as a site plan, subdivision, variance or special permit application, shall be considered by the Board having decisionmaking authority for that application. An application solely for the removal of one or more trees shall be heard by the Tree Commission as follows:
- (1) Undeveloped lots. Prior to removal of a tree on an undeveloped lot, the property owner shall make application for the tree permit to the Tree Commission, which shall have sole jurisdiction to issue a tree permit based upon the criteria set forth in Subsection **B** of this section.
 - (2) Developed lots.
 - (a) Prior to the removal of any specimen tree or a rare or endangered species tree or significant stands of trees on a developed lot, the property owner shall make application to the Tree Commission, which shall have sole jurisdiction to issue a tree permit based upon the criteria set forth in Subsection **B** below.
 - (b) If the tree removal involves clear-cutting, additional information may be requested by the decisionmaking body, including but not limited to complete plans (which shall be certified by a recognized tree expert) for the restoration plan of the site after tree removal, drawn to a scale of not less than one inch equals 50 feet, and including the following:
 - [1] A description of the anticipated vegetative cover of the tree removal area, including dominant species before and after the tree removal.
 - [2] The location of the tree removal area in relation to property lines, roads, buildings and wetlands within 100 feet thereof.
 - [3] Additional information as needed or deemed necessary by the decisionmaking body to evaluate the proposed tree removal in terms of the goals and standards of this chapter.
 - (3) Exemptions. The following activities are permitted without a tree removal permit:
 - (a) Removal of any tree not regulated in accordance with this section.
 - (b) Removal of any tree in an emergency condition when such immediate tree removal is necessary for the protection and preservation of life or property and there is no time to wait for the granting of a tree removal permit.
 - (c) Removal of any tree that has been found to be dead, dying, insect-infested or hazardous by a recognized tree expert.
 - (d) Tree pruning that does not damage the basic nature of the tree and which does not reduce the size by more than 1/4.

B. Criteria. The decision to issue a tree permit or otherwise approve tree removal shall be based on all the following criteria:

- (1) If the presence of the tree would cause hardship or would endanger the public or the person or the property of the owner or of an adjoining owner.
- (2) If the tree is diseased or threatens the health of other trees or if the protected trees or shrubs are dead or diseased to the extent that they cannot, or should not, consistent with good and accepted arboricultural practices, be saved, or that the removal of the protected trees or shrubs is otherwise necessary due to their health or physical condition, according to good and accepted arboricultural practices. To this effect, a written statement of a certified arborist, obtained and paid for by the applicant, may be required by the Tree Commission of any applicant who proposes to destroy any protected tree.
- (3) If the tree substantially interferes with a permitted and intended use of the property.
- (4) If the removal of the tree will not have an adverse effect on the ecological system.
- (5) If the removal of the tree would enhance views to the Hudson River or improve other viewsheds as identified in § 300-46D, View protection.

C. Appeals.

- (1) Applicants may appeal the decision of the Tree Commission, in writing, to the Zoning Board of Appeals. Such written appeal is to be given to the Village Clerk. Said appeal shall state specifically the location of the trees in relation to roads, structures and adjoining properties and shall further state the reasons why the permit application should have been granted. The appeal should refer to the criteria for granting permits noted in Subsection **B** above. Should the ZBA seek assistance from an outside consultant, all costs thereof shall be borne by the party seeking said appeal.
- (2) Appeal of decisions of the Planning Board, Architectural and Historic Review Board, and the Zoning Board of Appeals shall be made according to the standard appeal provisions for those boards and approval processes.