

ARTICLE 4  
GENERAL SUPPLEMENTARY REGULATIONS

§ 4.1 Parking, Loading, Access, and Traffic Standards

1. Off-street parking, loading, and unloading facilities shall be provided as necessary in connection with every use. One-family and two-family residential uses shall be provided with two (2) off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:
  - a. Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.
  - b. The characteristics of the proposed customers, residents, occupants, or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
  - c. The expected occupancy rates, traffic levels, and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
  - d. Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
  - e. The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand, and the hours of operation as compared to other neighborhood activities.
  - f. Where industry standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board, **Zoning Board Officer, or the Building Inspector**, as the case may be:

Home-occupations	1 space per 100 sq. ft. of floor area devoted to use
Hotels/motels	1 space per rental room
Industrial uses	1 space per 400 sq. ft. of floor area
Commercial uses	1 space per 250 sq. ft. of floor area
Places of public assembly	1 space per 5 seats
Offices	1 space per 300 sq. ft. of floor area
Restaurants	1 space per 50 sq. ft. of floor area
Vehicle service establishments	4 spaces per 1 per employee
<b>Multiple Dwelling</b>	<b>2 spaces per dwelling unit</b>

2. Each parking space shall consist of not less than an average of **two-hundred-seventy (270)** square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. Parking stalls shall be a minimum of nine (9) feet wide and eighteen (18) feet deep.

3. Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public right-of-ways and avoid light spillage onto adjacent properties.
4. All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following are guideline standards the Planning Board may apply:
  - a. No more than twelve (12) parking spaces should be allowed in a continuous row uninterrupted by landscaping.
  - b. No parking areas should be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area should be minimized and limited to connections from one lot to another and to the public highway or through road.
  - c. Commercial parking areas, where possible, should generally be located in the rear yard of any use, with the principal building situated near the front lot line as permitted by Schedule of District Regulations. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.
5. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional, or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet. **The number of spaces to be determined or waived by the Planning Board.**
6. Access to and from all non-residential off-street parking, loading, and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:
  - a. Access drives shall comply with all requirements of Local Law 2 of 1996 (Town of Deerpark Driveway Law, **as amended in Local Law 3 of 2008**). Access drives onto State and County highways shall be subject to New York State Department of Transportation and Orange County standards, as the case may be.
  - b. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.
  - c. All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Deerpark Highway Superintendent, the Orange County Department of Public Works, or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.
  - d. No use shall be permitted which requires year-round access from a Town highway which has been designated by the Town of Deerpark Town Board as a low volume or minimum maintenance seasonal highway pursuant to Section 205-a of the New York State Highway Law.

- e. For reasons of traffic and pedestrian safety, both on and off the street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all the requirements of this chapter, including but not limited to obtaining the appropriate permits and the payment of any and all fees for said permits, and shall be subject to the approval of the Superintendent of Highways, except where such are part of a use subject to special permit or site development plan approval, in which case they shall also be subject to Planning Board approval.
  - f. No driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two (2) street lines.
  - g. Driveway grades:
    - 1. The maximum grade for new subdivisions, concerning a driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be ten percent (10%), except where it can be demonstrated to the satisfaction of the approving authority that, because of unreasonable hardship affecting a particular property, the construction of a driveway shall be permitted, provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed twelve percent (12%).
    - 2. The maximum grade for new driveways accessory to uses other than single-family dwellings and connection the required off-street parking area to the street shall not exceed seven percent (7%), except that the approving authority shall have the same power to permit increased grades here as above, provided that such grades shall in no case exceed ten percent (10%).
    - 3. Notwithstanding the maximum permitted grades specified above, all driveways shall have a negative 2 percent (-2%) grade within fifty (50) feet of the centerline of the traveled way of the street, or within twenty-five (25) feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.
  - h. Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the automobile in the driveway.
7. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth landscaped according to § 7.12.
8. Traffic Study: The Planning Board, at its discretion, may require a traffic impact study by an independent engineer with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat
Fast-food restaurants	23.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. of gross floor area
Supermarket	177.6 trip-ends per 1,000 sq. ft. of gross floor area
Car wash	108.0 trip-ends per car stall
Offices	6.0 trip-ends per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. of gross floor area
Institutional uses	4.0 trip-ends per employee
Other uses	See “Trip Generation” – Institute of Transportation Engineers

The study shall examine the existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQRA submission.

9. Parking lots without principle uses are allowed in specific zones as a Special Use.

§ 4.2 Floodplain Development Standards  
(Local Law No. 1 of 2009; filed with the Town Clerk on June 1, 2009)

4.2.1.1 Findings:

The Town Board of the Town of Deerpark finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Deerpark and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purpose and objectives hereinafter set forth, this local law is adopted.

4.2.1.2 Statement of Purpose

It is the purpose of this Local Law to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions, in specific areas by provisions designed to:

1. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural preservation barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damages;
5. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and

6. Qualify and maintain for participation in the National Flood Insurance Program.

#### 4.2.1.3 Objectives

The objectives of this local law are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To provide that developers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their action.

#### 4.2.2.1 Definitions

Unless specifically defined below, words or phrases used in the Local Law shall be interpreted so as to give them the meaning they have in common usage and to give the Local Law its most reasonable application.

**“Appeal”** means a request for a review of the Local Administrator’s interpretation of any provision of the Local Law or a request for a variance.

**“Area of shallow flooding”** means a designated AO, AH, or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**“Area of special flood hazard”** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of the Local Law, the term “special flood hazard area (SFHA) is synonymous in meaning with the phrase “area of special flood hazard”.

**“Base flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.

**“Basement”** means that portion of a building having its floor subgrade (below ground level) on all sides.

**“Building”** – see “Structure”

**“Cellar”** has the same meaning as “Basement”.

**“Crawl Space”** means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete, or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**“Elevated building”** means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**“Federal Emergency Management Agency”** means the Federal agency that administers the National Flood Insurance Program.

**“Flood” or “Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**“Flood or “Flooding”** also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

**“Flood Boundary and Floodway Map (FBFM)”** means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

**“Flood Elevation Study”** means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**“Flood Hazard Boundary Map (FHBM)”** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**“Flood Insurance Rate Map (FIRM)”** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**“Flood Insurance Study”** – see “Flood Elevation Study”.

**“Floodplain” or “Flood-prone Area”** means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

**“Floodproofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**“Floodway”** – has the same meaning as “Regulatory Floodway”.

**“Functionally dependent use”** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

**“Highest adjacent grade”** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**“Historic structure”** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**“Local Administrator”** is the person appointed by the community to administer and implement the Local Law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**“Lowest floor”** means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Local Law.

**“Manufactured home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a “Recreational vehicle”.

**“Manufactured home park or subdivision”** means a parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale.

**“Mean sea level”** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD), or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**“Mobile home”** – has the same meaning as “Manufactured home”.

**“New construction”** means structures for which the “start of construction” commenced on or after the effective of a floodplain management regulation adopted by the community and includes and subsequent improvements to such structure.

**“One hundred year flood” or “100-year flood”** – has the same meaning as “Base Flood”.

**“Principally above ground”** means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**“Recreational vehicle”** means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**“Regulatory Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designed height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in this Law.

**“Start of construction”** means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundation, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**“Structure”** means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**“Substantial improvement”** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a “Historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “Historic structure”.

“**Variance**” means a grant of relief from the requirements of the Local Law which permits construction or use in a manner that would otherwise be prohibited by the Local Law.

#### 4.2.3.1 Lands to Which the Local Law Applies

The Local Law applies to all areas of special flood hazard within the jurisdiction of the Town of Deerpark, Orange County.

#### 4.2.3.2 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard for the Town of Deerpark, Community Number 360612, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. Flood Insurance Rate Map Panel Numbers:

36071C0039E, 36071C0043E, 36071C0044E, 36071C0182E, 36071C0184E,  
36071C0192E, 36071C0205E, 36071C0206E, 36071C0207E, 36071C0208E,  
36071C0209E, 36071C0211E, 36071C0212E, 36071C0213E, 36071C0214E,  
36071C0216E, 36071C0217E, 36071C0218E, 36071C0219E, 36071C0226E,  
36071C0227E, 36071C0228E, 36071C0229E, 36071C0231E, 36071C0236E,  
36071C0237E, 36071C0238E, 36071C0377E, 36071C0381E, 36071C0382E,

whose effective date is August 3, 2009, and any subsequent revisions to these map panels that do not affect areas under our community’s jurisdiction.

2. A scientific and engineering report entitled “Flood Insurance Study, Orange County, New York, All Jurisdictions”, dated August 3, 2009.

The above documents were adopted and declared to be part of the Local Law. The Flood Insurance Study and/or maps are on file at:

Office of the Town Clerk, Town of Deerpark, Town Hall, 420 Route 209, Huguenot, NY 12746.

#### 4.2.3.3 Interpretation and Conflict with Other Laws

The Local Law includes all revisions to the National Flood Insurance Program through March 20, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of the Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of the Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or Local Laws, the most restrictive, or that imposing the higher standards, shall govern.

#### 4.2.3.4 Severability

The invalidity of any section or provision of the Local Law shall not invalidate any other section or provision thereof.

#### 4.2.3.5 Penalties for Non-Compliance

No structure in an area of special flood hazard shall be constructed, located, extended, converted, or altered, and no land shall be excavated or filled without full compliance with the terms of the Local Law and any other applicable regulations. Any infraction of the provisions of the Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates the Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Deerpark from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of the Local Law for which the developer and/or owner has not applied for and received an approved variance will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

#### 4.2.3.6 Warning and Disclaimer of Liability

The degree of flood protection required by the Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. The Local Law does not imply that land outside the area of special flood hazards of uses permitted within such areas will be free from flooding or flood damages. The Local Law shall not create liability on the part of the Town of Deerpark, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on the Local Law or any administrative decision lawfully made there under.

#### 4.2.4.1 Designation of the Local Administrator

The Building Inspector is hereby appointed Local Administrator to administer and implement the Local Law by granting or denying floodplain development permits in accordance with its provisions.

#### 4.2.4.2 The Floodplain Development Permit

##### 4.2.4.2.1 Purpose

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

##### 4.2.4.2.2 Fees

All applications for a floodplain development permit shall be accompanied by an application fee of \$0.00. In addition, the applicant shall be responsible for reimbursing the Town of Deerpark for any additional costs necessary for review, inspection, and approval of the project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

#### 4.2.4.3 Application for a Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

1. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE, or AH,

or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

2. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
3. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section “UTILITIES”.
4. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section “NON-RESIDENTIAL STRUCTURES”.
5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations, or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 4.2.3.2 when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
6. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
7. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

#### 4.2.4.4 Duties and Responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to the following:

##### 4.2.4.4.1 Permit Application Review

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

1. Review all applications for completeness, particularly with the requirements of subsection 4.2.4.3 “Application for a Permit”, and for compliance with the provisions and standards of the Local Law.
2. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 4.2.5, “Construction Standards”, and in particular sub-section 4.2.5.1 .1 “Subdivision Proposals”.
3. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g. stream bank erosion and increased

flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section “Construction Standards”, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

4. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal Law.

#### 4.2.4.4.2 Use of Other Flood Data

1. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community’s Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to Paragraph 4.2.4 (7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of the Local Law.
2. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of the Law.

#### 4.2.4.4.3 Alteration of Watercourses

1. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### 4.2.4.4.4 Construction Stage

1. In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
2. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder’s risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

#### 4.2.4.4.5 Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

#### 4.2.4.4.6 Stop Work Orders

1. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 4.2.3.5 of the Local Law.
2. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 4.2.3.5 of the Local Law.

#### 4.2.4.4.7 Certificate of Compliance

1. In areas of special flood hazard, as determined by documents enumerated in Section 4.2.3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of the Local Law.
2. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
3. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.2.4.4.5 "Inspections", and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which have been required as a condition of the approved permit.

#### 4.2.4.4.8 Information to be Retained

The Local Administrator shall retain, and make available for inspection, copies of the following:

1. Floodplain development permits and certificates of compliance;
2. Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.2.4.4.4.1 and 4.2.4.4.4.2 and whether or not the structures contain a basement;
3. Floodproofing certificates required pursuant to sub-section 4.2.4.4.4.1 and whether or not the structures contain a basement;
4. Variances issued pursuant to Section 4.2.6 "Variance Procedures", and
5. Notices required under sub-section 4.2.4.4.3 "Alteration of Watercourses".

#### 4.2.5.1 General Standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 4.2.3.2.

4.2.5.1.1 Subdivision Approvals

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions).

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed so as to minimize flood damage; and
3. Adequate drainage shall be provided to reduce exposure to flood damage.

4.2.5.1.2 Encroachments

1. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - i. The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or
  - ii. The Town of Deerpark agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Deerpark for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Deerpark for all costs related to the final map revision.
2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 4.2.3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
  - i. A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or
  - ii. The Town of Deerpark agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Deerpark for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Deerpark for all costs related to the final map revisions.

4.2.5.2 Standards for all Structures

4.2.5.2.1 Anchoring

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind force.

4.2.5.2.2 Construction Materials and Methods.

1. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
3. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Design for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - ii. The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

#### 4.2.5.2.3 Utilities

1. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### 4.2.5.3 Residential Structures

##### 4.2.5.3.1 Elevation

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections "Subdivision Proposals", "Encroachments", and "Standards for all Structures".

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
2. Within Zone A, when no base flood elevation data area available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map (at least two feet if no depth number is specified).
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

#### 4.2.5.4 Non-Residential Structures

The following standards apply to new and substantially improved commercial, industrial, and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections "Subdivision Proposals", "Encroachments", and "Standards for all Structures".

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
  - i. Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - ii. Be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
2. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
  - i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified.
3. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 4.2.5.4.(1)(i), including specified elevation (in relation to mean sea level) to which the structure is to be floodproofed.
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

#### 4.2.5.5 Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards “General Standards” and “Standards for all Structures” apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

1. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
  - i. Be on site fewer than 180 consecutive days from April 1 to November 1;
  - ii. Be on site fewer than 150 consecutive days from November 1 to March 31;
  - iii. Be fully licensed and ready for highway use; or
  - iv. Meet the requirements for manufactured homes.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.
4. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (at least two feet if no depth number is specified).

#### 4.2.6 Variance Procedure

##### 4.2.6.1 Appeals Board

1. The Zoning Board of Appeals as established by the Town of Deerpark shall hear and decide appeals and requests for variances from the requirements of the Local Law.
2. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of the Local Law.
3. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
4. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Local Law; and

- i. The danger that materials may be swept onto other lands to the injury of others;
  - ii. The danger to life and property due to flooding or erosion damage;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. The importance of the services provided by the proposed facility to the community;
  - v. The necessity to the facility of a waterfront location, where applicable;
  - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. The compatibility of the proposed use with existing and anticipated development;
  - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
5. Upon consideration of the factors of Section 4.2.6.1(4) and the purposes of the Local Law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Local Law.
  6. The Local Administrator shall maintain records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

#### 4.2.6.2 Conditions for Variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 4.2.6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

- i. The proposed repair or rehabilitation will not preclude the structure’s continued designation as a “Historic structure”; and
  - ii. The variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - i. The criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
  - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances shall only be issued upon receiving written justification of:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
7. Any applicant to whom a variance is granted for a building with the lower floor below the base flood elevation shall be given written notice over the signature of a community official that:
  - i. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - ii. Such construction below the base flood level increases risk to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of the Local Law.

#### § 4.3 Home Occupation Regulations

1. Home occupations, including businesses which rely upon attraction of the general public (.e.g. retail sales) are permitted as Special Uses in certain districts, provided they do not detract from the residential character, appearance (handicapped access notwithstanding), or make-up of the neighborhood in which the business is located. Because of the need these types of businesses may have for advertising and display, and the unpredictability of traffic generation, owners of such businesses must be very cautious about how they operate their business to ensure they do not adversely impact the surrounding neighborhood. The following factors shall be used to determine

if a home occupation will comply with or is in violation of this Law. The determination can be made on any one, or a combination, of these factors and shall be made by the Building Inspector.

- a. Extent of the business – whether or not the residential use is still the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the property used for the business and the amount of time the business is operated on a daily basis. Employees on-site shall be limited to two (2) other than immediate family members.
  - b. Appearance from an adjacent street – whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a non-illuminated, permanent identification sign no larger than six (6) square feet in size attached to the principal structure and occasional deliveries, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principal structure is obscured from the street, or the structure is setback more than fifty (50) feet from the property line, a non-illuminated ground sign not to exceed twelve (12) square feet may be used. Factors for evaluating this standard shall be that the residential dwelling not be altered to changes its residential appearance, and no activity related to the conduct of the home occupation shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract attention to the business or adversely impact the residential character of the neighborhood.
  - c. Impact on the neighborhood – whether or not the business activity is causing a nuisance to surrounding property owners, is adversely impacting the peace, health, or safety of neighborhood residents, and/or is causing a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
    1. Traffic – whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A home occupation will be allowed to generate no greater than twenty-five (25) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, and the number of children present.
    2. Parking – whether or not parking problems could result from the business use. Factors which shall be used to evaluate this criteria include, but are not limited to the following: (i) parking required for the business shall be provided on-site; (ii) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than the ground, in which case a gravel surface shall be provided at a minimum; and (iii) no home occupation shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.
    3. Nuisance – whether or not the business activity is causing a nuisance to surrounding property owners or is deviating from the residential character or appearance of the neighborhood.
2. No home occupation, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with is law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home occupation to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on-site is strictly prohibited unless the business in then moved off-site.

§ 4.4 General Commercial and Industrial Standards

Wherever commercial, manufacturing or other non-residential uses, with the exception of agricultural activities and home occupations, are proposed the following performance standards will apply. The Building Inspector shall ensure these standards are met prior to issuing Certificates of Occupancy for such uses and may require the applicant(s) to provide documentation of compliance.

1. **Commercial/Residential Buffers:** Where a commercial or manufacturing use is contiguous to an existing residential use in any RS District (including those situated on the opposite side of a highway) or any approved residential lot in an RR or NR District, the Planning Board may require that the minimum front, side, and rear yards be increased up to fifty percent (50%). The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or twenty (20) feet wide dense evergreen planting not less than six (6) feet high be maintained, unless the properties are in the same ownership of the full width of the yard is already wooded (see also § 7.12).
2. **Inflammables:** All activities involving the manufacturing, production, storage, transfer or disposal of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require greater front, side, and rear yards and/or fencing.
3. **Electric Disturbances:** No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
4. **Noise:** The maximum sound pressure level radiated by any non-transportation use or facility at the property line shall not exceed the values given in Table 1 below after applying adjustments as provided in Table 2 below. The sound pressure shall be measured with a sound level meter and associated with Octave Band Analyzer conforming to standards prescribed by the American National Standards Institute.

TABLE 1

OCTAVE BAND RANGE CYCLES PER SECOND	MAXIMUM SOUND PRESSURE LEVEL DECIBLES (0.002 DYNE/2CM)
20-300	60
300-2,400	40
2,400+	30

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 PM and 7:00 AM, the adjustments in Table 2 shall be applied to the decibels levels given in Table 1. Where more than one adjustment is applicable, the largest adjustment only shall apply.

TABLE 2

TYPE OF LOCATION OR NOISE CHARACTER	ADJUSTMENT IN DECIBELS PERMITTED
1. Daytime operation only	+5
2. Noise source operates <20% of any given hour	+5
3. Property is located in HM-U District at least 500 feet from any Residential District boundary	+10
4. Noise of impulsive character (hammering, etc.)	-5
5. Noise of periodic character (hum, screech, etc.)	-5

Motor vehicle racetracks shall employ noise control suppression mechanisms as provided in the Town of Deerpark Local Regulating Motor Vehicle Racetracks (Local Law No. 1 of 1991, as amended).

5. Vibration: No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
6. Lighting: All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians, and land uses in proximity to the light source. Light sources shall comply with the following standards:

TYPE OF LIGHT SOURCE	MAXIMUM ILLUMINATION PERMITTED AT PROPERTY LINE	MAXIMUM PERMITTED HEIGHT OF LIGHT
Globe Light	0.20 Foot-candles	15 feet
>90% Cutoff	0.75 Foot-candles	25 feet
<90% Cutoff	2.00 Foot-candles	30 feet

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.

7. Smoke: No emission shall be permitted on a regular or continuing basis from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.
8. Air Pollution: No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.
9. Water Pollution: All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.
10. Vehicle and Equipment Sales: Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a Special Use, or as an expansion of an existing non-conforming use, the following additional performance standards shall apply:

- a. All mechanical and body repair work shall be performed within buildings.
  - b. All automobile or vehicle parts, new or used, shall be stored within buildings.
  - c. Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.
11. Multiple Commercial Occupancies: Where two or more commercial occupancies are proposed on one parcel within the HMU Zoning District, the Planning Board shall consider the most restrictive use proposed as the requirements to be met for site approval process. (Local Law 5 of 2005, filed with the Town Clerk on June 20, 2005).

§ 4.5 Minimum Lot Size Standards

The minimum lot sizes by Zoning Districts are as follows:

RR Zone:	1.0 Acres		
RS Zone:	1.0 Acres		
NR Zone:	0.5 Acres		
HMU Zone:	40,000 SF		
IB Zone:	(A) Public Water and Sewer:	10,000 SF	
	(B) Public Sewer Only:	15,000 SF	
	(C) Shared Sewer Only:	25,000 SF	
	(D) No Public Sewer and Water:	40,000 SF	
I1 Zone:	(A) Public Water and Sewer:	10,000 SF	
	(B) Public Sewer Only:	15,000 SF	
	(C) Shared Sewer Only:	25,000 SF	
	(D) No Public Sewer and Water:	40,000 SF	
RRC Zone:	2.0 Acres		

The Planning Board can take soil conditions in consideration for the development of new lots based on percolation and deep testing analysis.

Non-conforming lots are to be assessed on a case-by-case basis in consideration of soils, percolation and deep tests and separation distances from water and sewer facilities.

Lot lines of adjacent parcels can be combined by petition to the Assessor. The applicants must pay for all new maps, deeds, and filing fees.

4.6 Flag Lots

- 1. Purpose: The Planning Board has the discretion to approve residential flag lots within minor or major subdivisions where strict adherence to the zoning regulations would create unreasonable building lot configurations and the proposed flag lot would be the best use of the land.
- 2. Planning Board Review: The Town of Deerpark Planning Board shall have the discretion and authority to permit residential flag lots in minor or major subdivisions within all zoning districts which permit residential uses.
- 3. Standards:

- a. The Planning Board shall determine whether the flag lot is the best use of the land.
- b. Flag lots shall be subject to subdivision review by the Planning Board and shall conform to all standards set by the Land Subdivision Regulations of the Town of Deerpark (see Ch. 200, Subdivision of Land).
- c. Landlocked lots shall not be applicable for flag lots.
- d. Exclusive of the flagpole, the flag lot shall meet all bulk requirements, except front yard requirements, for the zoning district in which it is located. There shall be no front yard requirements for flag lots.
- e. A minimum flagpole width of 50 feet shall be provided; however, the Planning Board may require that the minimum flagpole width be increased on a parcel that is 10 acres in size or larger where it finds that the lot has the potential to be further subdivided. The flagpole shall be a minimum of 200 feet in length and 1,000 feet maximum in length.
- f. The grades shall not exceed 12% along drives in flag lots.
- g. A minimum buffer area of 25 feet in width shall be designated along all property lines of the flag lot. There shall be no construction within this designated buffer area except driveways.
- h. The minimum lot width of a flag lot shall be measured between the two (2) side lot lines at a point beginning at a minimum of 25 feet beyond the required two-hundred-foot (200) flagpole length.
- i. The minimum building setback line shall be no closer to the flagpole than 25 feet.
- j. Flag lots require special drainage and surfacing for driveways.
- k. Flag lots require additional monumentation along the flagpole.
- l. Flag lots require driveway profiles.