

VILLAGE OF EVANS MILLS

NEW YORK

ZONING LAW

Amended and Adopted December 8, 2005
Amended July 13, 2006 (Local Law #1 of 2006)
Amended June 14, 2012 (Local Law #2 of 2012)

**VILLAGE OF EVANS MILLS
ZONING LAW
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ARTICLE I ENACTING CLAUSE, TITLE, PURPOSE, APPLICATION

SECTION 105 ENACTING CLAUSE

Pursuant to the authority conferred by Article 7 of the Village Law and Article 2 and 3 of the Municipal Home Rule Law of the State of New York, the Village Board of the Village of Evans Mills hereby adopts and enacts as follows.

SECTION 110 TITLE

This law shall be known as the “Village of Evans Mills, New York, Zoning Law.”

SECTION 115 PURPOSE OF THE ZONING LAW

The purpose of the zoning law is to promote and guide development within the Village of Evans Mills and to provide for orderly growth in accordance with a comprehensive plan. This is designed to reduce land use conflicts, to lessen congestion in the streets, to secure safety from fire, flood, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to enhance and protect the historical and recreational attributes of the Village, to encourage quality development and conserve the value of existing development, to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, and to promote health, safety, and general welfare of the public.

This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of the land.

SECTION 120 PRIOR EXISTING ZONING ORDINANCE

This zoning law shall replace and supersede the prior existing zoning law and all other laws inconsistent with this law. This local law shall amend the Village of Evans Mills Zoning Law as adopted September 12, 1985 and thereafter amended.

ARTICLE II DEFINITIONS

Except where specifically defined herein, all words used in this law shall carry their customary meanings. Words in their present tense include the future, the singular number includes the plural and the plural the singular, and the word "lot" includes the word "plot." The board of Appeals under their powers of interpretation shall clarify doubt as to the precise meaning of any word used in this law.

Accelerated Erosion: The removal of the surface of the land through the combined action of man's activities and the natural processes at a rate greater than would occur because of the natural process alone.

Accessory Structure: A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

Accessory Use: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

Adjacent: With reference to the location of a parking facility, land located across an alley, easement, street, or highway from the building incidental to which such space for vehicle storage or off-street parking facility is required.

Adult

Entertainment: Any commercial or other enterprise which services such products as pornographic literature, movies, etc. as well as facilities which advocate female or male strip tease.

Agricultural: of, relating to, used in, or concerned with the science, art, or practice of cultivating the soil, producing crops, and raising livestock and in vary degrees the preparation and marketing of the resulting products.

Agricultural

Business: A business engaged in performing agricultural or horticultural services on a fee or contract basis including corn shelling; hay baling and threshing; sorting, grading, and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading for agricultural purposes; harvesting and plowing. The word agricultural business shall not include animal husbandry.

Agricultural Structure:

Barns, silos, storage buildings, equipment sheds, and other structures customarily used for agricultural purposes.

Agriculture:

Alteration:	As applied to a building or structure, to change or rearrange any structural part of the existing facilities of a building or structure, or to enlarge the building or structure whether by extending any side or increasing the height thereof, or the moving from one location to another.
Area (of a sign):	The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, as included within the definition of a sign, together with the frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On signs with more than one face, only that face or faces visible from any one direction at one time will be counted.
Assisted Living Housing / Residence:	Supervised lodging, usually for the young, sick, elderly, or incapacitated, in a home-type setting.
Bar / Tavern:	Any building, structure, or portion thereof used as a commercial enterprise or business which involves the serving of alcoholic beverages to the general public for consumption on the premises.
Buffer Strip:	An area of land designed to separate one use from another or to separate an area from noise, lights, or other nuisances.
Buildable Area:	The portion of a lot remaining after required yards have been provided and any conservation or preservation areas, easements, or right-of-way have been subtracted from the lot area.
Building:	Shelter having a roof supported by column or walls and intended for the shelter or enclosure of persons, animals, or property.
Building Area:	The total area, taken on a horizontal plane at the finished grade level of the principle building and all accessory buildings, excluding chimneys, uncovered porches, patios, terraces, steps, and open area- ways.
Building Height:	The vertical distance of a building measured from the average elevation of the finished grade of the building to the highest point of the building exclusive of chimneys, uncovered porches, patios, terraces, steps, and open-area-ways.
Building Line:	A line marked by the foundations of that face of the building or structure nearest the lot line, excluding chimneys and uncovered porches, patios, terraces, steps, eaves, overhangs, and open-area ways.
Camp:	Land on which is located one (1) cabin, recreational vehicle, tent, shelter,

or other accommodations suitable for seasonal or temporary living purposes.

Campground: Any area of land or water on which are located two (2) or more cabins, recreational vehicles, tents, shelters, or other accommodations of a design or character suitable for seasonal or temporary living purposes regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

Campsite: Any plot of land within a campground intended for the exclusive occupancy by a cabin, recreational vehicle, tent, or shelter.

Certificate of Occupancy: A permit issued by the village Zoning Enforcement Officer, which certifies that, following examination, a building, structure, or use is in compliance with the provisions of this law.

Church: A building, structure, or group of buildings or structures, intended for the conducting of organized religious services and accessory uses associated therewith.

Clubhouse: A building to house a club or social organization not conducted for profit and which is not adjunct to or operated by or in connection with a bar or other public place.

Cluster Development: A residential development design technique that concentrates dwelling units in specific areas of a site, but which allows the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features. Cluster development permits reductions in lot area and bulk requirements provided there is no increase in the gross density allowed on the site. The resultant land area is devoted to open space. See Article IX.

Community Facility /Center: Includes public or private meeting hall, or place of assembly, not operated primarily for profit.

Contractors Yard: Area used by a contractor for the purpose of storing equipment and supplies used in the erection of buildings or structures.

Diversion Terrace: A channel or dike constructed up slope of a project for the purpose of diverting storm water from the unprotected slope.

Driveway: A private road connecting a lot or building, such as a house or garage, with

the street or roadway.

Dwelling Unit: Building or part thereof used as living quarters for one family. The term “dwelling,” “three family dwelling,” or “multiple family dwelling,” shall not include a motel, hotel, boarding house, tourist home, mobile home, or similar structure.

**Dwelling,
Single Family:** Detached building designed for or occupied exclusively by one (1) family.

**Dwelling,
Two Family:** Building designed for, or occupied by, two (2) families living independently of each other.

**Dwelling,
Multiple Family:** A building designed for, or occupied by, three (3) or more families living independently of each other.

**Dwelling,
Semi-Detached:** A dwelling constructed on a lot with another dwelling, or dwellings, and attached to any other dwelling on the same lot by causeway, wall, roof, tunnel, or any other substantial manner.

**Earthmoving
Activity:** Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and moving, depositing or storing of soil, rock, or earth.

**Embankment or
Fill:** A deposit of soil, rock, or other material placed by man.

Erosion: The natural process by which the surface of the land is worn away by the action of water, wind, or chemical action.

**Erosion and
Sedimentation
Control Plan:** A plan which is designed to minimize accelerated erosion and sedimentation as set forth in Section 730.

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

Excavation: A cavity formed by digging, quarrying, uncovering, displacing, or

relocating soil or rock.

Family: One (1) or more persons living, sleeping, cooking, or eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage, or adoption, no such single housekeeping unit shall contain more than five (5) members.

Fence: An object, usually made of posts, boards, masonry, wire, or rails, which is erected or maintained for the purpose of securing, screening, partitioning, or enclosing a lot, building, or structure. A wall, which serves a similar purpose, is considered a “fence.”

Freight & Trucking Terminal: Either end of a carrier line having facilities for the handling of freight or goods that is central to a considerable area or serves as a junction at any point with other lines.

Front Lot Line: The property line separating a plot or parcel of property from a public street or highway right-of-way line. If a lot adjoins two (2) or more streets or highways, it shall be deemed to have a front lot line respectively on each.

Garages, Private: An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and / or other household items.

Garages, Public: Any garage other than a private garage, operated for gain, or available on a rental basis for the storage of motor vehicles.

General Plan: A comprehensive or master plan for the development of the Village prepared by the Planning Board pursuant to Section 7-722 of the Village Law.

Gross Floor Area (GFA): The gross size of the total floor area of the outside dimensions of the building. These dimensions shall include the length, width, and height of the facility multiplied by the number of floors.

Gross Leasable Area (GLA): The gross size of the floor area of a commercial / retail facility which is leased.

Highway Right of Way Line: A line that parallels the roadway at a set distance from the center of the

roadway.

Home Occupation: Any occupation, business, or commercial activity conducted as an accessory use of residential property by the residence thereof and one (1) employee, which is clearly incidental and secondary to the residential use of the dwelling unit in accordance with the provisions of Section 510 of this Law.

Hospital: An institution where the sick or injured are given medical or surgical care.

Interceptor

Channel: A channel or dike constructed across a slope for the purpose of intercepting storm water, reducing the velocity of flow, and diverting it to outlets where it may be deposited.

**Light Industrial /
Manufacturing**

Uses: Any facility which assembles, fabricates, processes, or packages products from raw materials.

Livestock Farm: A plot of land devoted to the raising of animals and especially domestic livestock.

Lot: Parcel of land with definite boundaries.

Lot, Building: A parcel of land occupied or designed to be occupied by one (1) building and the accessory building and the buildings or uses customarily incident to it, including such open spaces as are required by this law, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may be determined by the Planning Board to be adequate as a condition of the issuance of a zoning permit for a building on such land.

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

Lot Line: Property line bounding a lot.

Lot of Record: Any lot which individually or as a part of a subdivision has been recorded in the County Clerk's office and for which proof can be given that the lot was intended for development prior to adoption of this law.

Lumber Yard: a yard where a stock of lumber is kept for sale.

**Manufactured
Building:**

Has the following characteristics: it is:
1. Mass-produced in a factory;

2. Designed and constructed for transportation to a site for installation and use when connected to required utilities;
3. Either an independent, individual building or module for combination with other elements to form a building on the site.

Manufactured Housing:

A manufactured building or portion of a building designed for long-term residential use to be placed on a permanent foundation. Includes modular and mobile homes and trailers.

Mobile Home:

Manufactured housing built on a chassis. A mobile home shall be constructed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axels, hitch, or other appurtenances of mobility are removed and will be placed on a permanent foundation. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

Modular Home:

A dwelling unit, which is manufactured in two (2) or more sections off-site, transported to the placement site and assembled there and designed to be permanently anchored to a foundation to become a fixed part of the real estate.

Motel / Hotel:

A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related civilities primarily to accommodate the occupants, but open to the general public, including buildings designed as auto cabins, auto courts, motor lodges, tourist courts, and similar terms but shall not include boarding houses, bed and breakfast establishments, or rooming houses.

Motor Vehicle:

A self-propelled, wheeled conveyance that does not run on rails.

Motor Vehicle, Non-Licensed:

Any motor vehicle, as defined by New York State Department of Motor Vehicles (DMV), that is not registered.

Motor Vehicle Repair Shop:

A building, or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles.

Nonconformity:

A lot, building, structure, or use of land, that under the same ownership, legally and substantially exists at the time of enactment of this law, which does not conform to the regulations of the district in which it is situated.

Nursery School:

A school for children usually under the age of five years.

Nursing Home:

A privately operated establishment providing maintenance and personal or

nursing care for persons (as the aged or the chronically ill) who are unable to care for themselves properly.

Office, Medical /

Dental: A facility used for medical, dental or similar examination and treatment of persons as out patients by a licensed health care professional.

Off-Street Parking

Facility: A space for parking off the public streets and places in the Village.

Person: An individual person, co-partnership, voluntary association or corporation.

Personal Services: Including barber, hairdresser, beauty parlor, shoe repair, shoeshine, laundry, Laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

Plat: A drawing showing a proposed lot, building, or subdivision containing all information or detail required by law and by this law to be presented to the Planning Board for approval, and which if approved, may be duly filed or recorded by the applicant in the Office of the County Clerk.

Professional Offices: The use of offices and related spaces for such professional services, as are provided by medical practitioners, attorneys, architects, engineers, and similar professions.

Public and Semi-

Public Facility: Any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Religious institutions
- B. Public Parks, playgrounds, and recreational areas when authorized or operated by a governmental authority
- C. Schools
- D. Public Libraries
- E. Non-for-profit fire, ambulance, and public safety buildings
- F. Government offices

Quarry, Sand Pit,

Gravel Pit: A lot or land or part thereof used for the purpose of extracting stone, sand, or gravel for sale, as a commercial operation.

Rear Lot Line: That lot line, which is opposite and most distant from the front lot line.

Recreational Vehicle: Shall include snow mobiles, off-road motorcycles, all-terrain vehicles (ATV's), motor homes, truck campers, camping trailers, travel trailers, and pop-up trailers, used for recreational travel and living purposes.

Recreation, Outdoor: Includes, but not limited to, golf driving range, golf pitch and putt course, and par three golf course; recreation court; open space; play field; swimming pool; bike trails; hiking trails; and similar facilities for outdoor recreation. Outdoor recreation shall not include any building.

Religious Institution: Includes church, temple, parish house, convent, seminary, and retreat house.

Residence: Any building in which one lives, that is designed for and utilized for human habitation.

Restaurant: Any establishment, however designed, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or semi-public community pool, playground, or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

Retail Gasoline Outlet: Any establishment that sells gasoline and/or petroleum products to the public. This includes service stations, convenience stores, car washes, or any other facility that sells gasoline.

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

Retail, Small: A commercial activity characterized by the direct on-premise sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing, and servicing and preparation customarily associated therewith and generally involving stock in trade such as are normally associated with department stores, food markets, and similar establishments.

Right of Way: The strip of land over which facilities such as highways, railroads, or utilities are built and maintained.

Roadside Stand: Means a stall or booth for business, which shall be limited to the sale of farm products, and shall be of a temporary nature.

Salvage Yard: An area used for the purpose of extracting (as from rubbish) items deemed to be of value or use.

School: Includes parochial, private, public, and nursery school, college, university,

and accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music, and similar establishments.

- Sediment:** Soils or other surface materials, transported by surface water, as a product of erosion.
- Sedimentation:** The process by which sediment is deposited on stream bottoms.
- Setback:** Distance measured between the building front line and the street center line.
- Shopping Center:** Facilities providing retail and services, large product retail and services, or offices and business services in excess of 25,000 square feet gross leasable area.
- Side Lot Line:** A lot line other than a front lot line or rear lot line.
- Sidewalk:** An improved walk for pedestrians usually found along the side of a street or road.
- Sign:** Any structure or natural object or part thereof or device or inscription located upon, attached thereto or painted or represented on any land or on the outside of any building or structure or part thereof or affixed to the glass of a window so as to be seen from outside of a building which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banner, flags, pennants, insignia, trademarks, devices or representation used as, or which is in the nature of an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry, or public performance. Signs shall include any letter, word, model, banner, pennant, insignia, trade flag, or other device or representation used as, or which is in the nature of, an advertisement, announcement or direction, but excluding any public traffic or directional signs.
- Sign, Portable:** Any sign which, by its design, is able to be and is commonly moved from place to place and/or is not permanently mounted.
- Stabilization:** The proper placing, grading and/or covering of soil, rock, or earth to ensure their resistance to erosion, sliding, or other movement.
- Street:** Public way for vehicular traffic which affords the principal means of access to abutting properties.

- Structure:** Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, satellite dishes, tanks and any fixtures, additions, and alterations thereof. The word fences shall not be included in the definition of structure.
- Subdivision:** Any parcel of land that is divided into two (2) or more lots, blocks, or sites, for the purpose of conveyance, transfer of ownership, improvement, building development, or sale in accordance with the Village Subdivision Control Local Law. The term subdivision shall include re-subdivision. A tract of land shall constitute a subdivision upon the sale, rental, offer for sale or lease, or building development of the second lot thereof within any consecutive three (3) year period.
- Temporary Storage Facilities:** A facility that is designed for storage. May include garages, warehouses, or mini-storage facilities.
- Theater:** A building for showing motion pictures.
- Travel Trailer:** See Recreational Vehicle.
- Use:** The specific purposes, for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.
- Use, Principal:** A use not requiring Planning Board review, but requiring a zoning permit issued by the Zoning Officer.
- Use, Special:** A use requiring site plan review by the Planning Board prior to the issuance of a zoning permit by the Zoning Officer.
- Use, Temporary:** An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction, which are removed after the completion of the construction work, and seasonal produce stands.
- Variance:** A variance is any departure from the strict letter of this law granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.
- Warehouse:** A structure for the storage of merchandise or commodities.
- Yard:** Space on a lot occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.
- Yard, Front:** The space within and extending the full width of the lot from the center line of the street to the part of the principal building which is nearest to such center line. If a lot adjoins two (2) or more streets or highways, it shall be

deemed to have a front yard respectively on each.

Yard, Rear: The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such lot line.

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

Zoning Enforcement

Officer: A person appointed by the Village Board to carry out the regulations of this law.

Zoning Permit: A form on which approval is issued by the zoning enforcement officer for the construction, alteration, or demolition of a building or structure or for the institution of a new, use, or replacement of a new structure or some similar activity requiring such approval as outlined in this law.

ARTICLE III ESTABLISHMENT OF ZONES

SECTION 305 TYPES OF ZONES

For the purpose of this law, the Village of Evans Mills is hereby divided into the following zoning districts:

Single Family Residential	R-1
General Residential	R-2
Business	B-1

SECTION 310 ZONING MAP

Said zones are shown, defined and bounded on the map accompanying this law entitled "Village Zoning Map," dated December 8, 2005 and filed in the office of the Village Clerk, which map and all explanatory matters thereon in by this reference incorporated into this law.

SECTION 315 INTERPRETATION OF ZONE BOUNDRIES ON ZONING MAP

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the Zoning Map, the following rules shall apply:

- A. Where the designation on the Zoning Map indicates a boundary approximately upon a street line, such line shall be construed to be the boundary.
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such line shall be construed to be the boundary.
- C. Where a zone boundary line divides a lot of record at the time such line adopted, the use authorized on, and the zone requirements of the least restricted portion of such lot shall be understood as extending to the entire lot.
- D. Distances shown on the Zoning map are perpendicular distances from street lines measured back to the zone boundary line, which lines in all cases where distances are given are parallel to the street line.
- E. In other cases, the boundary line shall be determined by the use of the scale on the Zoning Map.
- F. In the event that a mete-and -bound description has been filed for a change of zone or variance of use as required by this law, such mete-and-bound description shall be used in lieu of other provisions of this section.
- G. Utilization of the Village Tax Map is recommended when revising or enacting zone boundaries. Zone boundaries should, if possible, conform to property line boundaries.

ARTICLE IV REGULATIONS OF ESTABLISHED ZONES

SECTION 405 SINGLE FAMILY RESIDENTIAL ZONE (R-1)

A. Purpose

The R-1 Residential District comprises those areas of the village that are largely single-family residential neighborhoods. The district regulations are intended to preserve the existing low-density residential character of these neighborhoods.

B. Principal Uses

1. Single family dwelling
2. Accessory uses/structures

C. Special Uses

1. Home occupations
2. Essential Services
3. Public or semi-public facility
4. Roadside stands
5. Assisted living housing/ residence

SECTION 410 GENERAL RESIDENTIAL ZONE (R-2)

A. Purpose

The R-2 Residential Districts are along the eastern portion of the village both north and south. A mixture of uses occupy this district. New development which is sensitive to the natural constraints of the area is encouraged.

B. Principal Uses- Building Code Officer can issue permit without Planning Board Approval.

1. Single family dwelling
2. Two family dwelling
3. Roadside stands
4. Accessory uses/ structures

C. Special Uses- (Requires Planning Board Approval)

1. Home Occupations
2. Essential Services
3. Multi-family dwelling
4. Office, Medical & Dental
5. Hospital
6. Nursery School
7. Nursing Home
8. Public and semi-public facilities

SECTION 415 CENTRAL BUSINESS ZONE (B-1)

A. Purpose

The B-1 District is the commercial core of the village. A mixture of service establishments, offices, shops and residences occupy the district. These regulations are intended to promote an environment in which the public and members of the business community can benefit from one another.

B. Principal Uses

1. Single family dwelling.
2. Two family dwelling.
3. Multiple family dwelling containing three to six individual independent family living units.
4. Roadside stands.
5. Professional Office.
6. Small retail.
7. Restaurants.
8. Offices, medical & dental.
9. Parking.
10. Lumber yard.
11. Accessory uses – structures.

C. Special Uses

1. Home occupations.
2. Personal services.
3. Multiple family dwelling containing more than six individual independent family living units.
4. Hospital.
5. Nursery school.
6. Nursing home.
7. Public and semi-public facilities.
8. Theaters.
9. Garage, public.
10. Motel – hotel.

11. Essential services.
12. Light industrial / manufacturing.
13. Warehouse.
14. Freight and trucking terminal.
15. Contractors' yards.
16. Agricultural and horticultural use.
17. Accessory uses and structures.
18. Adult entertainment to include adult book and video stores (see Local Law No. 4 - 1998).

D. Prohibited Uses

Any process or manufacture, assembly or treatment which is not clearly incidental to a retail business conducted on the premises or which in the opinion of the Planning Board normally constitutes a nuisance by reason of odor, noise, glare, dust, or smoke even if incidental to a retail business conducted on the premises

1. Salvage yards.
2. Mobile homes.
3. Livestock.

Section 2. This local law shall take effect upon filing with the Department of State as required by the provisions of the Municipal Home Rule Law.

SECTION 420 AREA REGULATIONS CHART

District	Min. Lot Size (sq. ft.)	Min. Lot. Width	Min. Front Yard	Min. Rear Yard	Min. Side Yard	Accessory Structure Setback
R-1						
1- FAMILY DWELLING	15,000	100'	30'	25'	15'	10'
R-2						
1- FAMILY DWELLING	15,000	100'	30'	25'	15'	10'
2- FAMILY DWELLING	20,000	150'	30'	25'	15'	10'
MULTIPLE FAMILY DWELLING	3,500 sq. ft/d.u	100'	30'	25'	15'	10'
MULTIPLE FAMILY DWELLING 3+	5,000 sq. ft/d.u	100'	30'	25'	15'	10'
B-1						
1- FAMILY DWELLING	15,000	100'	30'	25'	15'	10'
2- FAMILY DWELLING	20,000	150'	30'	25'	15'	10'
MULTIPLE FAMILY DWELLING	3,500 sq. ft/d.u	100'	30'	25'	15'	10'
MULTIPLE FAMILY DWELLING 3+	5,000 sq. ft/d.u	100'	30'	25'	15'	10'
SPECIAL USES	20,000	150'	30'	25'	15'	10'

*Refer to Article V and Article VIII for Special use requirements and General Regulations

**Refer to Article XI for Nonconforming Lots of Record.

ARTICLE V SPECIAL USES

SECTION 505 GENERAL REQUIREMENTS

The Village Board of Trustees recognizes that certain land use activities are desirable within the village, but, by their nature, may have undesirable elements associated with them that threaten the public's health, safety, and general welfare. The Village Board of Trustees hereby empowers the Planning Board to review those activities listed in each district as requiring Special Use Permit approval. The Planning Board shall review each Special Use Permit application as provided in this article. Each special use shall be considered an individual case.

No permit shall be issued for a special use for a property where there is an existing violation of this law.

All Special Uses shall require a site Plan Review as specified in Article VI. Those uses listed as requiring Special Use Permit approval shall meet the requirements as specified in this Article and as specified in Article VIII before approval by the Planning Board.

SECTION 510 HOME OCCUPATION

A home occupation is that accessory use of a dwelling that shall constitute either entirely or partly the livelihood of a person living in that dwelling.

A. All home occupations shall meet the following requirements:

1. No persons other than the one (1) employee and the permanent residents of the dwelling unit shall be employed in the home occupation.
2. A home occupation shall be clearly incidental and secondary to the dwelling unit for residential purposes. No more than twenty-five (25%) percent of the gross floor area of the dwelling unit shall be used in connection with a home occupation for storage purposes in connection with a home occupation.
3. A home occupation shall be carried on wholly within the principal building. Within the R-2 Residential District, a home occupation may be carried on within an accessory structure if the parcel is two (2) acres in size or larger and all other parts of this section are complied with.
4. There shall be no exterior indication of the home occupation or variation from the residential character of the principal dwelling except for one (1) unlighted sign or nameplate no larger than two (2) square feet shall be allowed on site.
5. There shall be no outside operations, storage, or display of materials or products. No interior storage or display of goods or products shall be visible from outside the structure.

6. There shall be no noise, glare, smoke, vibrations, odors, heat, fumes, or electrical interference produced by the home occupation, which would exceed that which is normally produced by the principal use.
7. No pedestrian or vehicular traffic shall be generated by a home occupation in greater volume than that normally expected from the principal use.
8. The use shall not require additional off-street parking spaces for clients or customers of the home occupation.
9. No commercial telephone directory listing, newspaper, radio, or television service shall be used to advertise the location of a home occupation to the general public.

B. Prohibited Home Occupations

The following are prohibited as home occupations:

1. Animal hospitals
2. Dancing Studios
3. Mortuaries
4. Nursery Schools
5. Private Clubs
6. Restaurants
7. Stables or kennels (more than three (3) domesticated animals on the premises)
8. Tourist homes
9. Paint shops
10. Real estate and / or insurance agency and / or brokers

C. Unlisted Home Occupations

Any proposed home occupation that is neither specifically defined by paragraph A nor specifically prohibited by paragraph B, shall require a special permit and be granted or denied by the planning board upon consideration of those standards contained in paragraph A.

**SECTION 515 RETAIL GASOLINE OUTLETS, MOTOR VEHICLE REPAIR
SHOPS AND PUBLIC GARAGES**

- A. Location: A retail petroleum outlet shall not be located within three hundred (300) feet of

any lot occupied by a school, library, or religious institution or one hundred fifty (150) feet from a residential structure. Measurements shall be made between the nearest respective lot line.

- B. Setbacks: Gasoline and / or fuel pumps and fuel storage tanks shall not be located closer than fifty (50) feet to any front, side, or rear property line. All motor vehicle repair shops shall be so arranged as to require all services on the premises no closer than fifty (50) feet to any lot line.
- C. Storage of Waste Material: All junk wastes, discarded parts, etc., as a result of servicing motor vehicles, equipment, etc., shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent lots until disposed of in a timely manner. None of these materials may be disposed of on the lot.
- D. Petroleum pumps, products, and / or tanks must be removed if no longer in use.
- E. Installations and storage of fuel in underground tanks shall conform to appropriate regulations governing petroleum bulk storage. Underground tanks shall be properly anchored in areas of high groundwater tables or seasonal flooding.
- F. The flow, control, and safety of vehicular and pedestrian traffic shall not be adversely affected to an unreasonable degree. Provisions shall be made to separate areas of pedestrian traffic from areas of vehicular traffic with the use of buffers, curbing, and sidewalks, etc.
- G. Provisions shall be made to prevent contamination of surface and / or groundwater resources due to fuel spills or contaminated surface runoff from the site.
- H. All repairs, dismantling, replacing, straightening, painting, etc., shall be conducted within an enclosed building. All garage doors, windows, and other doors shall be kept tightly shut during all repairs, dismantling, replacement, straightening, painting, etc.
- I. All gasoline stations or motor vehicle repair shops adjacent to public facilities, residential structures, or lots shall have a ten (10) foot minimum landscape buffer.
- J. Entrance and exit curb cuts shall be located at least fifteen (15) feet from any side or rear property line.
- K. Canopies over pump islands shall not extend closer than twenty (20) feet to any public right-of-way.
- L. Temporarily stored vehicles, repaired vehicles, tow trucks, etc., shall be placed indoors or screened from view when the business is closed on weekends and / or overnight.
- M. The building shall be positioned so that garage doors are located on the side away from residential structures or properties. No windows are to be placed in repair areas of the building which would face residential structures or property.

- N. If any of the above standards or other standards in this law or other local or state laws are not maintained, it shall be deemed grounds for revocation of the special use permit.

SECTION 520 LIGHT INDUSTRIAL / MANUFACTURING USES

- A. A minimum of one (1) acre shall be required for all light industrial / manufacturing uses.
- B. All structures, including accessory structures shall not cover more than fifty (50%) percent of the area of the lot.
- C. The maximum building height shall be three (3) stories.
- D. The minimum front, rear, and side yards shall be fifty (50) feet.
- E. All industrial facilities and activities shall be enclosed within buildings.

SECTION 525 LARGE PRODUCT RETAIL

- A. Setback: Such sales, rental, or storage operations shall be located at least one hundred (100) feet from the nearest residential lot line.
- B. Screening: When within two hundred (200) feet of a residential structure, such operation shall be screened from adjacent residential property by a fence, hedge, or other planting or structure so as not to be visible from the adjacent property. Such screening shall be in conformance with the standards set forth in Section 720.
- C. Servicing Facilities: Such operation that also have service facilities for the same shall meet the requirements of Retail Gasoline Outlets, Motor Vehicle Repair Shops, and Public Garages, Section 515.

SECTION 530 ESSENTIAL SERVICES

The Planning Board shall determine the following prior to approving a site plan for the proposed essential service.

- A. Location: The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. Buildings: The design of any building or structure in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. Landscaping: Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property. A maintenance plan for ground cover and

landscape screening shall be developed. In addition, debris which collects on site shall be periodically removed.

- D. Access: All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- E. Fencing: Security fences shall be erected of an adequate height to protect public safety. All major electrical transformer facilities or substations, if above ground, shall be secured by a fence. Also, no transformer or associated switches shall be closer than one hundred (100) feet from any lot line.
- F. Lighting: Security lighting shall be installed but must be shielded from glare onto adjacent lots.
- G. Utilities: If technologically possible, utilities are encouraged to share common right-of-way's, conduit or trenches, easements, poles, or towers.

SECTION 535 MANUFACTURED HOMES

- A. A manufactured home shall be skirted with masonry walls around the entire carriage base. This shall be placed so as to prevent the wind from circulating under the floor of the home.
- B. A manufactured home shall be anchored to at least six (6) "tie-down points." The cable, strapping, and other anchoring devices used for such tie-downs shall be of sufficient carrying strength to hold 4,800 pounds in place.
- C. A manufactured home shall be placed on a permanent foundation.
- D. In no case shall more than one (1) manufactured home be allowed per lot.
- E. A manufactured home shall not be older than ten (10) years at time of application.
- F. A manufactured home shall be in good appearance / condition and will be inspected by the Village Code Enforcement Officer prior to entry into the village.
- G. Location of an individual mobile home outside of the R-2 District may be permitted upon authorization of a temporary permit by the Zoning Board of Appeals when the Board determines that one of the following criteria has been met:
 - 1. **Special Necessity:** Upon proof of special necessity for an agricultural use where an additional dwelling is needed for a farm employee, tenant or family members, the Zoning Board of Appeals may grant a temporary permit for the installation of a single mobile home to be placed on the same individual lot as an existing conventional single-family dwelling conditioned upon the following:
 - a. The mobile home shall not be occupied by persons other than employee, tenant, or family members and

ARTICLE VI SITE PLAN REVIEW

SECTION 605 AUTHORITY

The Planning Board of the Village of Evans Mills is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the village as hereinafter designated pursuant to Section 7-725 of the Village Law and in accordance with the standards and procedures set forth in this local law.

SECTION 610 OBJECTIVES

- A. The purpose of site plan review is to promote the health, safety, and general welfare of the village. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the village and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the village and the general welfare of its inhabitants.
- B. It is further the intent of site plan review to ensure the optimum overall conservation, protection, preservation, development, and use of the natural and man-made resources of the village, by regulating land use activity within the village through review and approval of site plans.
- C. In order to provide for the orderly growth of the community, consistent with the objectives set forth in all current and future development plans, all applications for a special use permit shall be accompanied by a proposed site plan. In considering and acting on site plans, the Planning Board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - 1. Vehicular Access: That proposed access points are not excessive in number, but adequate in grade, alignment, and visibility, not located too close to intersections or places of public assembly, and other similar safety considerations.
 - 2. Circulation and Parking: That adequate off-street parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that it provides adequate separation of pedestrian and vehicular movements.
 - 3. Landscaping and Screening: That all parking, storage, loading, and service areas are reasonably screened at all seasons of the year from the view of adjacent residential area and that the general landscaping of the site is in character with the surrounding areas.

4. Natural Features: That the proposed use, together with its sanitary and water services facilities, are compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the extent possible.
5. Compatibility: That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive master plan for the village.

SECTION 612 APPLICABILITY

- A. Any person, before starting development of any new land use activity at any location within the village where this law requires approval of site plans, shall submit a site plan together with any supporting data for review and approval in accordance with the standards and procedures set forth in this law. No permit or Certificate of Occupancy shall be issued by the building inspector, except upon authorization by and in conformity with an approved site plan.
- B. All new land use activities within the village shall require site plan review and approval before being undertaken, except the following:
 1. Construction of, alterations or additions to, one or two-family dwellings and ordinary accessory structures, and related land use activities.
 2. Landscaping or grading which is not intended to be used in connection with a land use review able under the provisions of this law.
 3. Ordinary repair or maintenance of existing structures or uses.
 4. Interior alterations having a cost value of less than twenty-five thousand dollars. (\$25,000)
 5. Nonstructural gardening uses
 6. Signs under ten (10) square feet.

Any person uncertain of the applicability of this law to a given land use activity may apply, in writing, to the Planning Board for a written jurisdictional determination.

- C. This law does not apply to uses and structures which are lawfully in existence as of the date this law becomes effective (See Article X). Any use or structure shall be considered to be in existence provided the same has been commenced as of the effective date of this law and fully constructed and completed within one (1) year from the effective date of this law.

SECTION 615 PROCEDURE

- A. **Sketch Plan:** A sketch plan conference between the applicant and the Planning Board shall

be held to review the proposed development in light of existing conditions and to generally determine the information to be required on the preliminary site plan. At the conference, the applicant shall provide a statement and a rough sketch describing what is proposed together with a topographic map (USGS) showing the location of the tract and its relationship to the surrounding area.

- B. **Initial Review:** The above material will be reviewed by the Planning Board to determine the proposal's conformity to the General Plan and to provide the applicant with a firm

indication of whether the proposal in its major features is acceptable or should be modified before expenditures for more detailed planning are made. The board shall also review the preliminary site plan application requirements to determine information the applicant will need to present with the site plan. An Environmental Assessment Form (EAF) should be completed and submitted at this time.

- C. **Application for Preliminary Site Plan Approval:** An application for preliminary site plan approval shall be filed with the Village Clerk together with the appropriate fee as determined by the fee schedule adopted by Village Board resolution. The application and plan shall include where applicable, but not limited to, the following:

1. Name and address of applicant and owner, if different, and of the person responsible for the preparation of such drawings;
2. Date, north-point, written and graphic scale;
3. Boundaries of the area plotted to scale, including distances, bearings, and area;
4. Location and ownership of all adjacent lands as shown on the latest tax records;
5. Location, name, and existing width of adjacent streets;
6. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
7. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
8. Existing hydrologic features together with grading and drainage plan showing existing and proposed contours at five feet intervals;
9. Location, proposed use, and height and dimensions of all buildings;
10. Location, design, construction materials of all parking and truck loading areas with access and egress drives thereto;
11. Provisions for pedestrian access, including public and private sidewalks;
12. Location of outdoor storage, if any;

13. Location, design, and construction material of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
14. Description of the method of sewage disposal and the location, design, and construction material of such facilities;
15. Description of the method of securing public water and location, design, and construction material of such facilities;
16. Location of fire lanes and other emergency zones including the location of fire hydrants;

17. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size, design, and construction materials of all proposed signs;
19. Location and proposed development of all buffer areas including indication of existing and proposed vegetative cover;
20. Location and design of outdoor lighting facilities;
21. Designation of the amount of gross floor area and gross lease / rent area proposed for retail sales and services, office, and other similar commercial or industrial activities;
22. Number and distribution by type of all proposed dwelling units;
23. General landscaping plan and planting schedule;
24. A draft Environmental Impact Statement (EIS) where required;
25. Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution.

D. **Planning Board Review of Preliminary Site Plan:** The Planning Board shall consider the proposed site plan and its net effect on the community. Such consideration shall include, as appropriate, but shall not be limited to, compatibility of the General Plan, the economic, social, physical, and environmental aspects of the proposal, and such other matters as may be determined pertinent. The board may consult with local and county officials, its designated consultants, and also representatives of federal, state, and county agencies, including, but not limited to, the Soil Conservation Service, the New York State Department of Environmental Conservation, and the Department of health.

E. **County Planning Board Review:** The Planning Board shall refer all site plan review matters that fall within those areas specified under General Municipal law, Article 12-B, Section 239-m to the County Planning Board prior to the Planning Board vote thereon. Any

site plan that falls within five hundred (500) feet of the boundary of the Village, a State / County park or recreation area, a State or County highway or expressway, a State or County owned drainage channel, or State or County land where a public building or institution is located, shall be referred to the Jefferson County Planning Board for their recommendations thereon. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, then the local Board may act without such report. The local Board must report to the County Planning Board on its final action within seven (7) days of that event.

- F. **Public Hearing:** The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within sixty (60) days of the receipt of the completed application for preliminary site plan approval and shall be advertised at least five (5) days before the hearing in the Village's official newspaper.
- G. **Planning Board Action on Preliminary Site Plan:** Within sixty (60) days of such public hearing, the Planning Board shall act on the preliminary site plan. If no decision is made within the said time period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission after it has been revised or re-designated.

The Planning Board shall, where required, be responsible for completion of a final EIS with revisions as they see fit together with a statement of findings required under the State Environmental Quality Review (SEQR) Law (Section 8-0109-8 of the Environmental Conservation Law). The Planning Board shall file and circulate a final notice of completion as required in the provision of Part 617, Title 6, NYCRR.

- H. **Procedures for Final Site Plan Review:** After receiving approval with or without modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan for approval. If more than six (6) months have elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision before accepting the proposed final site plan for review.

The final detailed site plan shall conform substantially to the approved preliminary site plan, and shall incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The following additional information shall accompany any application for final detailed

site plan approval:

1. Record of application for and approval status of all necessary permits from federal, state, and county officials;
 2. Detailed sizing and final material specifications of all required improvements;
 3. Estimated project construction schedule.
- I. **Planning Board Action on Final Site Plan:** Within sixty (60) days of receipt of the completed application for final site plan approval, the Planning Board shall make a decision on the plan submitted.
1. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the Village, The Planning Board shall endorse its approval on a copy of the final site plan.
 2. The decision of the Planning Board shall immediately be filed in the office of the Village Clerk and a copy mailed to the applicant.

SECTION 620 MATERIALS TO BE SUBMITTED BY APPLICANT

- A. Vicinity Map: This map, at a scale of two thousand (2000) feet to the inch or larger, shall show the relationship of the proposal to existing community facilities that may affect or serve it such as streets, shopping areas, schools, employment centers, etc. It shall show all properties, subdivisions, streets, and easements within three hundred (300) feet of the proposal. Such a sketch may be superimposed on a USGS map of the area.
- B. Topographic Map: This shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger and shall show existing topography at a contour interval of not more than five (5) feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use such as water courses, swamps, wetlands, rock outcrops, wooded areas, areas subject to flooding, etc.
- C. This map of the property on which the proposal is to be situated on, shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger and shall show the location of all automobile parking and all parking for commercial vehicles while loading and unloading, the location and width of all driveways, exits, and entrances, the location of all existing or proposed site improvements including drains, culverts, retaining walls, and fences; provide a description and show location and size of all signs, the location of proposed buffer areas, and the design of lighting facilities, and such other facilities as indicated in the preliminary site plan checklist.
- D. Elevation and / or Sections: The site plan shall be accompanied by preliminary elevation and / or sections at the same or larger scale as required for the site plan, drawn in sufficient

detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.

- E. Engineering Plans: Preliminary engineering plans including street improvements, drainage systems, and public or private utility systems, and other such supporting data as may be necessary.
- F. Environmental Assessment Form: The applicant shall provide either a full or short Environmental Assessment Form (EAF) depending on the scale of the project. Part I of the EAF must be completed by the project sponsor.

SECTION 625 BOND FOR INSTALLATION OF IMPROVEMENTS

A. General

In order that the village has the assurance that the construction and installation of such improvements as storm sewer, water supply, sewage disposal, landscaping, street signs, sidewalks, parking, access facilities, and street surfacing will be constructed, the Planning Board may require that the applicant enter into one of the following agreements with the Village.

1. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board.
2. Deposit a certified check in sufficient amount equal to the cost of construction of such improvements as shown on the plans and based on the above estimate.

B. Conditions

Before the final site plan is approved, the applicant shall have executed a contract with the Village, and a performance bond or certified check shall have been deposited covering the estimated cost of the required improvements that have been designated by the Planning Board.

The performance bond or certified check shall be to the Village and shall provide that the applicant, his heirs, successors, and assigns, their agents or servants, will comply with all applicable terms, conditions, provisions, and requirements of this law; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

Any such bond shall require the approval of the Village Board and review by the Village Attorney and if necessary, an independent engineer, as to form, sufficiency, manner of execution, and surety.

C. Extension of Time

The construction or installation of any improvements or facilities, other than streets, for which guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one (1) year from the date of approval of the final site plan. Street improvements shall be completed within two (2) years from the date of approval of the final site plan. The applicant may request an extension of time, provided he/she can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the Village may either use as much of the bond or check deposit to construct the improvements as necessary or grant one more six (6) month extension. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

D. Schedule of Improvements

When a certified check or performance bond are made pursuant to the preceding sections, the Village and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one (1) year following the completion, inspection, and acceptance by the Village of all construction and installation covered by the check deposit or performance bond as outlined in the contract.

E. Inspections

Periodic inspections during the installation of improvements shall be made by the Building Inspector to ensure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Building Inspector when each phase of improvements is ready for inspection. At least five (5) days prior to commencing construction of required improvements, the applicant shall pay to the Village clerk the inspection fee required by the Village Board. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his representative and such letter shall be sufficient evidence for the release by the Village of the portion of the performance bond or certified deposit as designated in the contract to cover cost of such completed work.

F. Acceptance of Streets and Facilities

When the Building Inspector, following final inspection of the improvements, certifies to the Planning Board that all installation and improvements have been completed in accordance with the contract, the Village Board may, by resolution, proceed to accept the facilities for which bond has been posted or check deposited.

ARTICLE VII SITE PLAN REVIEW STANDARDS

SECTION 705 GENERAL

In review and approval of Site Plans, the Planning Board shall follow the standards set forth in this Article.

SECTION 710 ACCESS

Access to all sites shall be consistent with the standards set forth in “Policy and Standards for Entrances to State Highways,” as revised, published by the State of New York Department of Transportation.

SECTION 715 BUFFER AREAS

Where the site plan proposes commercial development adjacent to residential areas, the Planning Board shall require a minimum twenty-five (25) foot vegetative buffer area. Plant material shall be spaced to form an opaque screen either in a single row or multiple rows with alternate spacing and shall meet the standards of Section 720 of this Article.

SECTION 720 LANDSCAPING

A. In areas of Traffic Movement: In areas where landscape materials are used to define paths of traffic movement, the following guidelines shall be used:

1. Plants shall be selected to achieve not more than three (3) feet mature height. Planting height shall be eighteen (18) to twenty-four (24) inches.
2. Plants shall be spaced to create a compact hedge border at time of planting.
3. As an alternate, street trees may be used. Trees shall be approved by the landscape consultant, three-and-one-half (3 ½) to four (4) inches caliper, spaced twenty (20) feet on center, and having branching begin at a height no less than ten (10) feet and no greater than twelve (12) feet.

B. In and around Parking Areas: In areas where landscape materials are used to complement parking areas, the following guidelines shall be used:

Forty (40) foot planting islands at the end of or within parking areas shall contain the following materials:

1. Columnar varieties three-and-one-half (3 ½) inches to four (4) inches caliper, as approved by the Planning Board, shall be planted twenty (20) feet on center.
2. Trees with low growing branches shall be avoided.

C. To define Entrances and Exits: Where landscape materials are used to define the point of

entrance or exit to a commercial facility, the design may be a natural or formal setting; however, plant height shall not interfere with required sight distances.

D. To Complement Pedestrian Areas: Where landscape materials are used to complement areas intended for pedestrian activity, the following guidelines shall be used:

1. Pedestrian areas shall be paved with concrete paving blocks set in concrete, or other solid surface approved by the Planning Board.
2. In order to minimize large areas of paving, landscape features, such as two (2) to three (3) foot earth mounds and planters, shall be used.
3. Plant materials shall consist of a variety of evergreen and deciduous shrubs and trees.

E. Screening: Where landscape materials are used for screening purposes, the following guidelines shall be used:

1. When sufficient space is available, a dense screen of evergreen plant materials shall be used.
2. Plant materials shall be eight (8) to ten (10) feet in height when planted and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing.
3. Where limited space is available, stockade or other approved fencing may be used in conjunction with climbing or trellised plants.

F. Natural Areas: Where landscape materials are used primarily to beautify otherwise vacant spaces, the following guidelines shall be used:

1. Planting varieties shall be the same as D.
2. Where practical, earth forms should be used such as two (2) to three (3) foot landscaping mounds.
3. Planting bed cover: Same as D or, as an alternate, sod may be substituted.

G. To Complement State and County Highway Right-of-Ways: Where landscape materials are used to compliment areas within a State and County Highway right-of-way, the following guidelines shall be used:

1. The area shall be covered with sod, or as an alternative, stone aggregate at a minimum three (3) inch depth may be substituted.
2. Evergreen and/or deciduous materials shall be placed according to size approved by appropriate highway jurisdiction.

H. General Requirements:

1. Plant materials shall be nursery grown (a copy of the State Certificate of Source shall be provided to the Planning Board) and selected according to hardiness and ability to withstand highway salt conditions.
2. Spaces to receive plant materials shall have a minimum inside width of six (6) feet, except that where vehicle overhang is permitted, a ten (10) foot inside width shall be required.
3. Loose materials such as wood mulch and stone aggregate shall be spread within a landscaped space at a level not to exceed one-and-one-half (1 ½) inches below top-of-curb.
4. Areas that will receive continued pedestrian movement shall be paved.
5. Landscape plans shall be designed by an appropriate licensed professional who shall certify as to plant hardiness, and shall provide as-built plans of the completed project. The Village Landscape Consultant shall supervise construction and installation of landscape materials.

SECTION 725 LIGHTING SYSTEMS

- A. General: Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the Planning Board. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. No flood lights in excess of two hundred (200) watts shall be installed without specific written approval of the Planning Board.
- B. Design: The following design standards shall be followed on all site development plans:
 1. The style of the light standard should be consistent with the architectural style of the principal building.
 2. The maximum height of free-standing lights should be the same as the principal building but not exceeding twenty-five (25) feet.
 3. All lights should be shielded to restrict the maximum apex angle of the cone of illumination to one hundred fifty (150) degrees.
 4. Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.
 5. Spotlight-type fixtures attached to buildings should be avoided.
 6. Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.

7. Lighting should be located along streets, parking areas, at intersections, and where various types of circulation systems merge, intersect, or split.
8. Pathways, sidewalks, and trails should be lighted with low or mushroom type standards.
9. Stairways, sloping or rising paths, building entrances and exits, should be illuminated.
10. Lighting should be provided where buildings are set back or off-set.
11. The following intensity in foot-candles should be provided:
 - a. Parking Lots - an average of one (1) foot-candles;
 - b. Intersections - two (2) foot-candles;
 - c. Maximum at property lines - six-tenth (0.6) foot-candles;
 - d. In residential areas - an average of six-tenths (0.6) foot candles.

SECTION 730 SOIL EROSION AND SEDIMENTATION CONTROL

A. General

If, in the opinion of the Planning Board, the accelerated erosion of soil will result from any development proposal, the Planning Board shall require that such erosion shall be controlled. To accomplish this, a person engaged in earthmoving activities shall develop, implement, and maintain erosion and sedimentation control measures, which effectively minimize accelerated erosion and sedimentation. These erosion and sedimentation measures must be set forth in a plan as described below and must be available at all times at the site of the activity.

B. Erosion and Sedimentation Control Plan

1. The erosion and sedimentation control plan shall be prepared by a person, trained and experienced in erosion and sedimentation control methods and techniques.
2. The erosion and sedimentation control plan shall be designed to prevent accelerated erosion and sedimentation and shall consider all factors which contribute to erosion and sedimentation including, but not limited to, the following:
 - A. The topographic features of the project area;

- B. Types, depth, slope, and areal extent of the soils;
- C. The proposal alteration to the area;
- D. The amount of runoff from the project area and the upstream watershed area
- E. The staging of earthmoving activities;
- F. Temporary control measures and facilities for use during earthmoving;
- G. Permanent control measures and facilities for long-term protection;
- H. A maintenance program for the control facilities including disposal of materials removed from the control facilities or project area.

C. Restoration

1. Upon completion of the project, all areas, which were disturbed by the project, shall be stabilized so that accelerated erosion shall be prevented.
2. Any erosion and sedimentation control facility required or necessary to project areas from erosion during the stabilization period shall be maintained until stabilization is completed.
3. Upon completion of stabilization, all necessary or unusable control facilities shall be removed, the areas shall be graded and the soils shall be stabilized.

ARTICLE VIII GENERAL REGULATIONS FOR ALL USES

SECTION 805 GENERAL

The intent of this Article is to address general regulations, which apply to uses within all districts of the Village of Evans Mills. All uses shall follow the requirements of this Article. Where exceptions exist, it shall be stated within individual sections of this Article.

SECTION 807 ACCESSORY STRUCTURES

- A. In R-1 Zones, accessory structures shall not be located closer to the side or rear lot lines than ten (10) feet.
- B. In R-2 and B-1 Zones, accessory structures shall not be located closer to the side or rear lot lines than ten (10) feet.
- C. In all zones, accessory structures must comply with front yard requirements of the principal structure.

SECTION 810 SINGLE FAMILY HOMES AND MANUFACTURED HOMES

- A. A pitched roof of a minimum ratio of $\frac{1}{4}$ (about 14") shall be required.
- B. The building width along any road frontage shall be a minimum of twenty (20) feet. This may include an attached and enclosed accessory structure finished with materials similar to the main structure so the attached accessory structure has the appearance of being a part of the main structure.

SECTION 815 PARKING

A. Parking, General

- 1. All uses shall be provided with off-street parking for all vehicles during typical peak use periods. Off-street parking may be located off-site but must be within 300 feet of the site. Off-street loading spaces shall be provided as required in Section 815 C.
- 2. A parking space shall not be less than nine (9) feet by twenty (20) feet exclusive of access ways and driveways.
- 3. Existing uses need not provide additional off-street parking unless one or more of the following conditions occur:
 - a. The use changes.
 - b. The use expands its gross floor area by twenty (20) percent or more or if the dollar value of the rehabilitation of the facility for purposes of expansion exceeds fifty (50) percent of the prior value of the facility.

c. The use is destroyed and seeks to be re-established.

4. To the greatest extent possible, all parking areas shall be located behind the facility served and out of street-side view. Where parking areas must be located in front of a facility adjacent to a public highway, appropriate landscaping or visual barriers shall be provided.
5. To the greatest extent possible the size of all parking areas other than those for dwelling units and dwelling units with home occupations shall be based on gross leasable area. Where gross leasable area figures are unavailable, gross floor area figures shall be used.

B. Minimum standards:

1. Religious Institutions	One space for each 4 seats, or one space for each 100 square feet of gross floor area.
2. Community Facilities	One space for each 5 seats, or one space for each 100 square feet of gross floor area.
3. Medical and Dental Offices	Five spaces for each office, plus one space per employee in the maximum working shift.
4. Dwellings	Two spaces per dwelling Unit.
5. Hotel / Motel	One space plus one space for every dwelling unit.
6. Light Industrial/Manufacturing Use	One space for every motor vehicle used directly in the business, plus one space for every employee in the maximum working shift.
7. Professional Offices	One space for each 200 square feet of patron space.
8. Restaurants, Bars, Taverns	One space for each 50 square feet of patron space.

9. Retail Stores, Personal Service Use	One space for each 200 square feet of floor space plus one for each employee in the maximum work shift.
10. Funeral Homes	One space per 50 square feet GFA.
11. Shopping Centers 1-400,000 sq. Ft Gross Floor Area 400,001-600,000 sq. ft. GFA 600,001 + sq. ft. GFA	One space per 250 sq. ft. GFA. One space per 225 sq. ft. GFA. One space per 200 sq. ft. GFA.
12. Warehousing	One space for each employee in the maximum working shift, plus one space for each motor vehicle used directly in the business.
13. Facilities with Drive-up Windows	Three, 18-foot long car length stacking spaces for each drive-up lane. Where multiple drive-up windows exist, there shall be one additional stacking space which may be a common lane.

C. Off Street Loading Requirements

1. Every building occupied for the purpose of business or light industry shall be provided with adequate space for loading and unloading of vehicles off the street.
2. Off-street loading spaces shall have a minimum width of twelve (12) feet and a minimum vertical clearance of sixteen (16) feet above the finished grade of the space.
3. The length shall be a minimum of forty (40) feet for local delivery and seventy-five (75) feet for semi-trailers.

SECTION 820 SIGNS

A. **Intent**

The following sign regulations are enacted to protect the health, safety, and welfare of the residents of the Village by limiting the number, size, height, and location of signs. These regulations will ensure that:

1. The public’s ability to receive information is not overloaded by an excessive

number of signs;

2. Motorists and pedestrians are in no way distracted or have their vision obstructed by the placement, size, lighting, or number of signs;
3. Private property values are not adversely affected by the location, lighting, or glare from signage;
4. All signs are regulated uniformly thereby eliminating the tendency to continuously install larger, taller, and more numerous signs.

B. Exemptions

The following are permitted provided they do not violate provisions of this section or any other section of this law:

1. Construction Signs: One (1) temporary sign per street frontage of a building which is under construction or structural alteration or repair announcing the character of the building enterprise or the purpose for which the building is intended, one (1) sign per other construction project, including names of architects, engineers, contractors, developers, financiers, and others, provided the area of such sign shall not exceed twenty (20) square feet. Such sign shall not remain longer than one (1) month following completion of the project.
2. Real Estate and Sale Ad Signs: One (1) temporary sign not to exceed sixteen (16) square feet, advertising the sale, rental, or lease of an automobile, boat, recreational vehicle, building, land, mailbox, newspaper, box with the logo of the subscriber's newspaper, address, street number, family name, posted, warning, or no trespassing sign. All such signs shall be removed within five (5) days after the sale or lease of the property has been consummated and all such signs must be set back at least fifteen (15) feet from any designated street line.
3. Official and Public Signs: Signs authorized or required by any government entity including, but not limited to traffic control signs, public notices, placards, certificates, underground utility line markers, utility warning signs or other similar signs. Signs may be of a public or non-commercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, and all signs erected by a public officer in the performance of a public duty.
4. Sale Ad Signs: Signs advertising special sales of goods, or merchandise which will be on sale for no longer than one (1) month. Such signs shall not take up more than thirty (30) percent of the total window area of any building frontage and shall be removed immediately following termination of the sale.
5. Flags: Official flags of government jurisdictions, including flags indicating weather

conditions and flags, which are emblems of on-premises business firms and enterprises, religious, charitable, public, and nonprofit organizations. No single flag shall exceed thirty (30) square feet in area.

6. Plaques: Commemorative plaques placed by historical agencies recognized by the Village, the county of Jefferson, or the State of New York.

C. **Special Use Signs**

The following types of signs shall not be allowed at any location within the Village of Evans Mills unless approval has been granted by the Village Planning Board.

1. Portable Signs

D. **Prohibited Signs**

The following sign types shall not be allowed at any location within the Village of Evans Mills:

1. Any sign, which advertises an activity not conducted on the premises or a product not available for sale on the premise upon which such sign is maintained.
2. Any sign, which has flashing lights, moving parts, or projections beyond its area.
3. Any sign, which projects above the roof line or parapet of a building.

E. **General Sign Regulations**

All signs shall be subject to the following general standards.

1. Lighting

- a. No sign shall be erected which constitutes a hazard to pedestrian or vehicular traffic because of intensity, or direction of illumination.
- b. No sign shall create glare or cast light upon a neighboring property.
- c. No sign or light shall move, flash, or make noise. Indicators of time and temperature associated with signs may move.
- c. No sign, except for official traffic control devices, shall employ colored lights resembling traffic signals. The use of shapes or colors similar to official traffic control signs and words such as “stop,” “yield,” “danger,” or others in use as traffic control is prohibited.

2. Placement

- a. No sign shall be placed on a lot without the written permission of the owner

or agent.

- b. No sign shall be erected which prevents or obscures an unobstructed view of any traffic control device.
- c. No sign shall be erected which creates a hazard by distracting or obstructing the vision of pedestrians or vehicular traffic.
- d. All signs shall be placed no closer than fifteen (15) feet from any right of way.

3. Height

- a. No sign shall extend above the roof line of the structure to which it is attached.
- b. The height of a sign shall be measured from the finished grade directly beneath the sign to the highest point of the sign.

4. Measurement of Sign Area

- a. The area of a sign is the entire area within a single continuous perimeter composed of squares and rectangles which enclose the extreme limits of writing, representation, emblem, illustration, insignia, or any surface, space, or figure of similar nature as included within the definition of a sign, together with the frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which the sign is placed. On signs with more than one face, only that face or faces, visible from any one direction at one time will be counted.
- b. If a sign is irregular in shape or consists of independent detached letters or symbols, the total area of the sign shall be the sum of the areas of the squares or rectangles surrounding each individual sign component.

F. Sign Regulations by Zone

1. R-1 Residential Zone

- a. All freestanding signs shall have a minimum setback of eight (8) feet from street right of way.
- b. No sign shall be larger than six (6) square feet in area.
- c. No sign shall be taller than eight (8) feet in height.
- d. No more than one (1) sign per lot, either freestanding, wall, window, or projecting shall be permitted.

2. R-2 Residential Zone

- a. Freestanding signs shall have a minimum setback of eight (8) feet from street right of way.
- b. No sign shall be larger than twenty-two (22) square feet in area.
- c. Freestanding signs shall be no taller than twelve (12) feet in height.
- d. One (1) freestanding sign per lot up to a maximum of twenty-two (22) square feet in area is permitted.
- e. One (1) wall sign not more than one and a half (1.5) square feet for each lineal foot of building front parallel to a street line not to exceed thirty-two (32) square feet in area shall be permitted.
- f. One (1) window sign not to exceed more than 30% of the window it is attached to is permitted.

3. B-1 Business Zone

- a. Freestanding signs shall have a minimum of ten (10) feet setback.
- b. No sign shall exceed thirty-two (32) square feet in area.
- c. Freestanding signs shall be no taller than fifteen (15) feet.
- d. Projecting signs may extend a maximum of two (2) feet into a public right of way provided that the sign does not extend within four (4) feet of the curb line, vision is not obstructed and adequate clearance is provided for pedestrians.
- e. One (1) projecting sign per lot not to exceed ten (10) square feet in area is permitted.
- f. Projecting signs shall have a minimum of eight (8) feet clearance.
- g. One (1) wall sign not more than one (1) square foot for each lineal foot of building face parallel to the street shall be allowed not exceeding ten (10) square feet.
- h. One (1) window sign not to exceed 30% of the surface area of the window the sign is mounted upon is permitted.
- i. There shall be no more than one (1) freestanding, one (1) wall, one (1) window, and one (1) projecting sign per lot.

4. Off-premise Signs / Billboards / Outdoor Advertising

No off-premise signs shall be permitted within any Zone.

5. Nonconforming Signs

Signs lawfully in existence prior to the enactment of these regulations which are made nonconforming by these regulations may continue to exist provided that the sign is properly maintained but not replaced, except by a sign which conforms to the regulations of this section.

Any sign associated with an abandoned or unoccupied use shall be removed within ninety (90) days of such abandonment.

SECTION 825 ACCESS

There shall not be more than one entrance and one exit, per establishment, upon any individual public street and the distance between the entrance and the exit center lines, if separated, shall be not less than twenty-five (25) feet in any distance.

SECTION 830 SATELITE DISHES

- A. Location: In residential zones, where possible, all ground dishes shall be located in the rear yard.
- B. Minimum Distance: Where possible, all ground dishes shall be located a minimum distance of twenty-five (25) feet from any structure.
- C. Satellite Base: All ground dishes shall be mounted on a large concrete base or slab adequate to support the dish.

SECTION 835 HOTEL / MOTEL

Minimum land area per rental unit shall be seven hundred (700) square feet.

SECTION 840 LIQUEFIED GAS (LP) NATURAL GAS

- A. Such system shall be provided with safety devices to relieve excessive pressure and shall be arranged so that the discharge terminates at a safe location.
- B. Systems shall have at least one (1) accessible means for shutting off gas. This means shall be located outside of the structure being served.
- C. A liquefied gas piping shall be well supported and protected against mechanical injury.
- D. All exterior piping will be of a rigid nature. Flexible piping will be limited to indoor use only.

E. Distance requirements for liquefied gas storage tanks:

1. Tanks up to four hundred twenty (420) pounds / one hundred (100) gallons, may be attached to the structure being served, but shall be a minimum of three (3) feet from any structure opening.
2. Tanks of more than one hundred (100) gallons, and not more than five hundred (500) gallons, shall be a minimum of fifteen (15) feet from any structure or property line.
3. Tanks of more than five hundred (500) gallons shall be a minimum of twenty-five (25) feet from any structure or property line.

SECTION 845 OUTSIDE BOILERS / FURNACES

No freestanding heating appliance (boiler, furnace, etc.) separate from the structure or dwelling it supplies shall be allowed.

SECTION 850 FENCES

A. Requirements

1. Placed on the property line once established by a current survey.
2. Finished side will face the neighboring property unless both sides are finished.
3. Fences will not exceed six (6) feet in height.
4. Fences will not extend to the front or rear yard line in such a manner or style as to obstruct vision of egress.
5. Fences will be of a style that compliments surrounding structures.

ARTICLE IX CLUSTER DEVELOPMENT

SECTION 905 AUTHORIZATION

The Planning Board of the Village of Evans Mills is hereby authorized to modify applicable provisions of this zoning law pursuant to Section 7-738 of the Village Law simultaneously with the approval of any plat within the Village subject to the conditions set forth in this section.

SECTION 910 PURPOSE

The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments; which will promote more economic subdivision layout; which will encourage ingenuity and originality in total subdivision and individual site design, and which can preserve open space to serve recreational, scenic, and public service purposes, and other purposes related thereto within the densities established for the gross tract.

SECTION 915 DENSITY TRANSFER

In each zone allowing cluster development, the lot size may be reduced from the general lot size of that district to a specific minimum lot size for cluster development. All such lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, for recreation or conservation purposes.

In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable zone be increased, nor shall the other applicable regulations or use limitations for the zone be changed or modified.

SECTION 920 REVIEW CRITERIA

A permit for a cluster development shall be granted only if evidence is presented which establishes:

- A. That the proposed development will be in harmony with the general purpose, goals, objectives, and standards of the General Plan, this law, and the Subdivision Regulations.
- B. That the proposed building or use complies with all applicable regulations of this law except as modified pursuant to the authority of this Section.
- C. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
- D. That the proposed cluster development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property, in accordance with the applicable zone regulations.
- E. That the proposed cluster development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection,

drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

- F. That the purposed cluster development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

SECTION 925 OPEN SPACE REQUIREMENTS

- A. Depending on the size and design of the development, it may be necessary that a common open space, permanently reserved and maintained as landscaped park or recreational space, is provided to serve the homeowners within the development. The area, configuration, and location of such open spaces shall be subject to review and approval of the Planning Board.
- B. The land so set aside shall be provided in such a manner that it is usable for recreation or other activities and is accessible to all residents of the subdivision or, where the land has been deeded to the Village, to the public.
- C. Cluster open space shall be made available for the use of all residents of the Village unless the Planning Board finds that the size, location, type of development, or cost of development or maintenance of such cluster open space, or the availability of public open space, would make public use undesirable or unnecessary.
- D. If Cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance ; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any specifications deemed necessary by the Planning Board.

SECTION 930 LOCATION

The provisions of this Article shall apply to all zones within the Village of Evans Mills.

ARTICLE X SUBDIVISION

SECTION 1005 PURPOSE

The purpose of a subdivision is to permit for orderly, efficient growth within the community, and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health, and welfare of its population.

SECTION 1010 ADMINISTRATION AND ENFORCEMENT

This article shall be in accordance with the Village of Evans Mills Subdivision Control Local Law and shall be administered by the Planning Board and the Subdivision Inspector / Zoning Enforcement Officer.

ARTICLE XI ADMINISTRATION AND ENFORCEMENT

SECTION 1105 ZONING PERMITS

- A. No building or structure shall be erected, altered, moved, or use instituted, until a zoning permit therefore has been issued. The exterior structural area of a building shall not be enlarged until a zoning permit therefore has been issued. All zoning permits shall hereafter be secured from the zoning enforcement officer.
- B. A zoning permit shall not be required for:
1. Construction of a structure with a floor area of one hundred (100) square feet or less. However, such structures shall meet the following requirements:
 - a. They may be located in a required yard provided they do not disrupt a neighbor's views or traffic safety (ie. Line of site)
 - b. In no case shall the structure be located closer than ten (10) feet to the lot line or twenty-five (25) feet to the street line.
 - c. The structure or use shall not conflict with the principal uses of the zone.
 - d. Home occupations listed in Section 510.B.
 - e. Signs listed in Section 820.A.
 2. Fences or walls provided they meet the appropriate Zone Regulations.
 3. Interior structural alterations.
 4. Chimneys, placement of posts, and other similar accessory uses.
 5. No zoning permit is needed for routine maintenance and improvement (eg. roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure.
- C. When establishing measurements to meet the required front yards and structure setbacks, the measurements shall be taken from the street line, lot line, or nearest high water elevation to the furthest protruding part of the structure. This shall include such projecting facilities as cornices, eaves, porches, carports, attached garages, etc.
- D. No such zoning permit or certificate of occupancy shall be issued for any building or structure where said construction, addition, and exterior expansion or use thereof would be in violation of any of the provisions of this law.
- E. A zoning permit issued under this law shall expire six (6) months from the date of issue if construction is not started.

- F. Any use that has been discontinued for a period of twelve (12) months or longer shall be termed abandoned and may not be re-instituted without applying for a new zoning permit.
- G. Applications for zoning permits shall be submitted to the Zoning Officer or Village clerk and shall include a statement of intended use of the building or structure after construction, erection, or addition, and shall be accompanied by two (2) copies of a layout or plot plan showing the actual dimensions of the lot to build upon; the size and location on the lot of the structures and accessory structures to be; the distance from the building line to all lot lines, street right-way-lines, waterfront property lines, streams, and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This information, and other relevant application data, shall be provided on a form issued by the Village.
- H. A fee, as determined by the Village Board, shall be paid for each zoning permit issued. Costs of hearings, notices, postings, etc. shall be added to this fee when such requirements of the law must be met. A copy of the current fee schedule can be obtained from the Village Clerk.
- I. Temporary permits may be issued by the Zoning Officer, upon approval by the Board of Appeals (as meeting the intent and purpose of this law) for a period of not exceeding one (1) year, for conforming and non-conforming uses. Such temporary permits are conditioned upon agreement by the owner or operator to remove the nonconforming structure or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time. Such permits may be renewed.
- J. Parking lots for places of public assembly and commercial or business uses shall require a zoning permit for placement. They shall meet the requirements of Section 815.

SECTION 1110 ZONING OFFICER

- A. This law shall be enforced by the Zoning Officer who shall be appointed by the Village Board. Inspection services may be contacted by the Village of Evans Mills to enforce this law.
- B. The Zoning Officer's authorities shall include:
 - 1. Approve and / or deny zoning permits.
 - 2. Scale and interpret zone boundaries on Zoning Maps.
 - 3. Approval and / or deny Certificates of Occupancy.
 - 4. Refer appropriate matters to the Village Board, the Planning Board, or the Zoning Board of Appeals.

5. Evocation of a zoning permit where there is false, misleading or insufficient information. Revocation of a zoning permit and / or certificate of occupancy where the applicant has not done what was proposed on the application.
6. Issue stop work orders for noncompliance with this zoning law.
7. The Zoning Officer shall report at regular Village board meetings the number of zoning permits issued and fees collected.
8. Investigate violations of this law or complaints of violations.
9. Prosecute violations of this law through the court system.

SECTION 1115 CERTIFICATE OF OCCUPANCY

- A. No land shall be occupied or used and no building or structure hereafter constructed, erected, extended, used, or changes made in the use until a certificate of occupancy shall have been issued by the Zoning Officer stating that the building, structure, or proposed use thereof complies with the provisions of this law.
- B. All certificates of occupancy shall be applied for coincidentally with the application for building permit. Said certificate shall be issued within ten (10) days after the erection and alteration shall have been approved as complying with the provisions of this law.
- C. The Zoning Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- D. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary certificate of occupancy for not more than thirty (30) days for a part of the building may be issued by the Zoning Officer. Such temporary certificate may be renewed upon request for an additional thirty (30) days.

SECTION 1120 ZONING BOARD OF APPEALS

- A. **Creation, appointment, and organization:** A Zoning Board of Appeals is hereby authorized. Said Board shall consist of five (5) members. The Village Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Village Law. The Village Board shall appoint a Chairman and Vice-Chairman. The Board of Appeals shall select a Secretary and shall prescribe rules for the conduct of its affairs. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the un-expired term.
- B. **Powers and duties:** The Board of Appeals shall have all the power and duties prescribed by Section 7-712 of the Village Law and by this law, which are more particularly specified as follows.

- C. **Interpretation:** Upon appeal from a decision by the administrative official or citizen to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
- D. **Variations:** To vary or adapt the strict application of any of the requirements of this law according to the following criteria and standards.

1. Use Variance

The utilization of property, for a use not permitted by the zoning law, requires a use variance, which shall be granted only if the applicant can demonstrate “unnecessary hardships”. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, the applicant:

- a. cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
- b. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
- c. that the requested use variance, if granted, will not alter the essential character of the neighborhood.
- d. that the alleged hardship has not been self-created.

2. Area Variance

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officer charged with the enforcement of such law, to grant area variances as defined herein. Further in making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making this determination the board shall also consider:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- c. Whether the requested area variance is substantial.
- d. Whether the proposed variance will have an adverse effect or impact on the

physical or environmental conditions in the neighborhood or district.

- e. Whether the alleged difficulty was self-created: which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. Procedures

1. The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Village. Every appeal or application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the variance is sought, or the modification of dimensions for which the variance is sought.
2. The Zoning Board of Appeals may wish to refer an appeal to the Planning Board for its recommendation before any final action by the Zoning Board of Appeals. The Planning Board shall have fifteen (15) days from the date of receiving information on the appeal to issue a recommendation. If a recommendation is not issued in this time, it shall be deemed by the Board of Appeals that the Planning Board has no position on the appeal. All recommendations from the Planning Board to the Zoning Board of Appeals shall be made in writing and are nonbonding on the final decision of the Zoning Board of Appeals. The Planning Board's recommendation shall consider the appeal's relevancy in terms of general intent of this law, the comprehensive master plan and other long-range planning concerns.
3. All variances that fall under the jurisdiction of General Municipal Law 239-m shall be referred to the Jefferson County Planning Board for its review and action thereon, prior to any final decision by the Zoning Board of Appeals.
4. Every decision of the Zoning Board of Appeals shall contain a full description of reasons for granting or denying an appeal. The reasons for the decisions shall be set forth in the Minutes of the Zoning Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded, Final decision by the Board shall be rendered in public session.

SECTION 1125 PLANNING BOARD

A. Creation, Membership, and Organization

A Planning Board is reauthorized and shall consist of five (5) members appointed by the Village Board. Successors to the original appointees shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. The Village board shall select a chairperson but the Planning Board shall prescribe the rules for conduct of its affairs.

B. Powers and Duties

The Planning Board shall have all the powers and duties prescribed by the Village Law and by the Zoning Law, some of which are specified below:

1. **Referral Action:** Appeals to the Zoning Board of Appeals (ZBA) may be referred to the Planning Board for its recommendation before any action by the ZBA. The Planning Board shall have fifteen (15) days from the date of receiving information on the appeals to issue a recommendation. If a recommendation is not issued in this time, it shall be deemed that the Planning Board has no position on the appeal. All recommendations from the Planning Board to the ZBA shall be made in writing and are non-binding on the decision of the ZBA. The Planning Board's recommendation should consider the appeal's relevancy in terms of the general intent of this Zoning Law, the Comprehensive Master Plan, and other long-range planning concerns.
2. **Amendments:** The Village Board shall refer all amendment proposals to the Planning Board for a review and recommendation period prior to the Village Board action thereon. The Planning Board's recommendation shall be made in writing to the Village Board within a reasonable period of time. The Planning Board's recommendation should consider the amendment and its impact on the Comprehensive Master Plan, the Zoning Law, and other long-range planning concerns of the Village.
3. **Special Use Permits:** The Planning Board shall have the authority to issue or deny Special Use Permits in accordance with the requirements of this law and the Village Law. All appropriate procedures outlined in Article V shall be followed.
4. **Site Plan Review:** The Planning Board shall have the authority to administer the site plan review requirements of this law found in Article VI. In so administering these regulations, it is recognized that site plan review allows the Planning Board to vary the strict application of this law, in order that the applicant meets generally prescribed performance criteria. However, the Planning Board shall be empowered to establish specific conditions, dimensions, and other requirements to meet these performance standards. In performing this duty, the Planning Board shall act in accordance with the

legal authority of this law as the appropriate section of Village Law.

5. **Development Agreement:** The Planning Board shall have the authority in its absolute discretion to require an applicant for subdivision review, site plan review, or special permit review to enter into a Development Agreement with the Village which is intended to provide a mechanism for an applicant to be responsible for the expenses to be incurred by the Village in connection with independent professional services or consultants which the Village may retain to assist the Planning Board in its review of the application. If the Planning Board determines that a Development Agreement shall be required, the application shall not be accepted as complete, and the Planning Board shall not be required to initially review, until the Development Agreement has been executed by the applicant and the Village.

C. Referral

All Site Plan or Special Use Permit actions that fall under the jurisdiction of General Municipal Law 239-m shall be referred to the Jefferson County Planning Board for its review and action thereon prior to any final decision by the Village of Evans Mills Planning Board.

SECTION 1130 VIOLATIONS AND PENALTIES

- A. Whenever a violation of this law occurs, the Zoning Officer, Village, or any person may file a complaint in regard thereof. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer who shall properly record, file and immediately investigate such complaint. If the violation is not corrected within the specified time, the Village shall take action to compel compliance.
- B. Following investigation of a complaint, the Zoning Enforcement Officer is to inform the landowner that they are in violation of this law. The landowner shall be notified by certified mail as to the manner in which they are in violation. The landowner will have fourteen (14) days to remedy the situation from the mailing date. The Zoning Enforcement Officer may informally contact the landowner about the situation before this step is taken.
- C. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation. If a violation continues, the Zoning Enforcement Officer shall issue the landowner a "Stop Work Order." The landowner shall be notified a second time by certified mail as to the manner in which they are in violation. The landowner will have fourteen (14) days to remedy the situation from the mailing date. All construction work must stop immediately upon receipt of a "Stop Work Order." After the initial fourteen (14) day period, each week an offense is continued shall be deemed a

separate violation of this law.

- D. In addition to the penalties provided above, the Village Board may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.
- E. Any person, firm, or corporation that commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law, shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than fifteen hundred (\$1500) dollars or by imprisonment for not exceeding six (6) months, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this law.

SECTION 1135 NONCONFORMITIES

A. Intent

The intent of this section is to recognize certain uses, lots of record and structures which legally existed at the time of enactment of this local law and which would be prohibited or unreasonably restricted by the provisions, regulations, standards, or procedures herein. This section shall not, however, be construed to perpetuate or encourage the survival or expansion of such uses, lots or structures.

B. Non-Conforming Uses

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

1. No non-conforming use shall be expanded, extended, or otherwise increased so as to occupy a greater area of land than was committed to the non-conforming use at the time of such enactment.
2. No non-conforming use shall be extended so as to displace a conforming use;
3. No non-conforming use of land or structures which has, for any reason, been discontinued for a period of one (1) year maximum from date of discontinuance, shall not be reestablished and only conforming uses shall be thereafter permitted;
4. A non-conforming use of land or structures once changed to a conforming use shall not be permitted to change back to a non-conforming use.

C. Non-Conforming Lots of Record

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

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

D. Non-conforming Structures

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

1. Its owner or owners can demonstrate that construction, erection, or location of a conforming structure is either:
 - a. Physically impractical due to the size, configuration, or condition of the lot; or,
 - b. A physical hardship; and,
2. Such repair, restoration, or reconstruction is undertaken:
 - a. Only on the premises and to a maximum of the extent previously occupied by the non-conforming structure and,
 - b. Within one (1) year from the date on which the damage or destruction occurred.

Should a non-conforming structure be moved any distance for any reason, such structure shall conform to the requirements of the zone into which it is moved.

SECTION 1140 ZONE CHANGES

Whenever the boundaries of a zone shall be changed so as to transfer an area from a district of one classification to a district of a different classification, the foregoing provisions shall apply to nonconforming uses created by such transfer.

SECTION 1145 AMENDMENTS

- A. Every proposed amendment or change, whether initiated by the Village Board or by petition, shall be referred to the Planning Board for review and recommendations. The Planning Board shall consider the proposed amendment as it relates to the Comprehensive Master Plan, the Zoning Law, and other long-range planning concerns of the Village. The Planning Board shall submit its recommendation, to the Village Board, within a reasonable amount of time.
- B. The Village Board may amend, supplement, or repeal the regulations and provisions of this law and the Zoning Map after public notice and public hearing. All proposed changes shall be referred to the County Planning Board for its recommendation and for a report thereon prior to final action. The Village Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:
1. By publishing a notice at least ten (10) days prior to the time of such hearing in the Village's official newspaper.
 2. By referring a written notice of the proposed changes or amendments affecting property within five hundred (500) feet to the Clerk of the County Legislature and the clerks of neighboring cities, towns, villages, or counties, and to any housing authority or state park commission whose property might be affected, at least ten (10) days prior to the public hearing.
 3. All other provisions of posting, publication, filing, etc., pertaining to the amendment as set forth in the Village Law shall be adhered to.
- C. In case of a protest against such change signed by the owners of twenty per centum (20%) or more of the area of land included in such proposed change or by the owners of twenty per centum (20%) or more of the land immediately adjacent extending one hundred (100) feet there from, or by the owners of twenty per centum (20%) or more of the land directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the members of the Board of Trustees in Villages having three members on the board of trustees and three-fourths (3/4) of the members of the Board of Trustees in all other villages.

ARTICLE XII INTERPRETATION AND APPLICATION

SECTION 1200 HIGHER STANDARDS TO GOVERN

- A. Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Where the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposes the higher standard, shall govern.

SECTION 1205 SEVERABILITY PROVISION

- A. Should any section or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 1210 EFFECTIVE DATE

The provision of this law shall take effect upon filing with the Secretary of State.