

ARTICLE VI  
**Special Permit Uses**

**§ 310-6.1. General provisions.**

Uses requiring special permits are discretionary because they are normal or expected in the specific zoning district but could have negative impacts or conflict with uses that are permitted “as of right” by site plan approval in each district. The uses listed in Schedule I, Use and Bulk Requirements, 1 as special permit uses, for the districts in which they are permitted and subject to the bulk regulations therefor, may be authorized on application and after public notice and hearing by the Planning Board.

- A. Approval of special use permits. The Town Board of the Town of Fallsburg authorizes the Planning Board to review and grant special use permits as set forth herein.
- B. Applicability and standards. On application and after public notice and hearing, the Planning Board may authorize the issuance by the Code Enforcement Officer of permits for any of the special uses permitted in Schedule I in the district in which such use is proposed to be located. The Planning Board shall review an application's conformity with the individual standards for special use permits contained herein, if applicable, and shall also have the authority to impose such reasonable conditions and restrictions as are directly related to or incidental to the proposed special use permit. In approving any such use, the Planning Board shall further the expressed intent of this chapter and the accomplishment of the following objectives:
  1. That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
  2. That the proposed use shall be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
  3. That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
    - a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or

inconvenient to or incongruous with said residential district or conflict with the amount of traffic in the neighborhood; and

- b. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
4. The impact of the proposed use shall not engender avoidable impacts upon the environment of the site or adjacent lands and that any such impacts will be the minimum necessary to accommodate the proposed use and, further, that there shall be the maximum preservation of unique ecological or environmental assets particularly as such affect the value and viability of adjacent areas.
- C. Waiver of requirements. The Town Board herein authorizes the Planning Board, when reasonable, to waive any of the individual standards for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver may be exercised in the event any such individual standards are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.
1. When reviewing any special permit application, including Religious uses which are presumed to be beneficial to the community and therefore may not be unreasonably denied approval when mitigation(s) can reasonably protect against detrimental impacts of the project/proposal, the Planning Board has discretion to require mitigation where practicable, subject to the following responsibilities:
    - a. Clearly identify issues of concern;
    - b. Provide a thorough analysis of the issues;
    - c. Explain how required mitigations will ameliorate concerns; and
    - d. Maintain a record of these issues, analysis and findings.

In its discretion the Planning Board has the authority to require the applicant to submit studies for the purpose of conducting analysis regarding potentially detrimental impacts of a proposed religious use and accept mitigations in lieu of absolute denial of either a portion(s) of a proposal or the entire application. Such authority does not permit approval of any projects that create fatal safety hazards that cannot be mitigated or that do not meet New York State Environmental Quality Review requirements, but merely grants discretion to ameliorate special use permit standards that address neighborhood inconveniences or nuisances. This discretion does not pre-empt the need for a variance when the application does not meet any element of this zoning law.

- D. The owner shall not change, deviate, modify or vary from the application and site plan once the same is approved by the Planning Board.

#### **§ 310-6.2. Procedure.**

Application for a special permit pursuant to these regulations shall be upon forms prescribed by the Town Planning Board and shall contain a written description of the proposed use, with reference to the appropriate use and bulk regulations herein, including any supplementary regulations applying thereto. Twelve copies of every application for a special permit shall be submitted to the Town Planning Board Secretary with the fee as set forth in the Standard Schedule of Fees of the Town of Fallsburg. The following general procedures shall be applied:

- A. Site plan. Applications for special use permits shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, each application for a special use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the lot. The Planning Board shall deem that a special use permit and site plan application are complete prior to the conduct of a public hearing on the application.
- B. Public hearing. The Planning Board shall conduct a public hearing within 62 days from the day a complete special use permit application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. Property owners within 300 feet of the project property line shall be notified of the public hearing by certified mail by the applicant. The applicant shall mail notice of said hearing at least 10 days before said hearing. The Planning Board shall cause the applicant to post notice on the subject property indicating the date, time, and location of the public hearing, and a brief description of the action being considered, at least 10 days prior to the public hearing date. One notice shall be posted along each property line adjoining a road and shall be clearly visible from said road. Notices shall be affixed in a manner prescribed by the Planning Board. Said notice shall be removed following the close of the public hearing.
- C. Notice to the applicant, Sullivan County Planning Department and adjacent municipalities. At least 10 days before the public hearing, the Town of Fallsburg Planning Board shall mail notices thereof to the applicant, the Sullivan County Planning Department, as required by § 239-m of the General Municipal Law, and to adjacent municipalities as required by General Municipal Law § 239-nn, which shall be accompanied by a full statement of the matter under consideration, as defined in General Municipal Law § 239-m, Subdivision 1.
- D. Decision. The Planning Board shall decide upon the application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- E. Filing. The decision by the Planning Board on the application shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy mailed thereof to the applicant.

- F. Existing violations. No special use permit shall be issued for property where the Code Enforcement Officer has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in the correction of said violation. If a violation notice has been or is issued to the subject property, the Code Enforcement Officer, with written approval from the Planning Board Chairperson, may prohibit and/or remove the application from the Planning Board meeting agenda until such violation(s) are remedied, unless the purpose of the application is to remedy such violation(s). [Amended 11-14-2022 by L.L. No. 12-2022]
- G. Area variance. Where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations.
- H. Deemed to be conforming. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted. The expansion of any special use shall require full approval of the special use permit by the Planning Board. For purposes of this subsection, "expansion" shall be interpreted to mean an increase in the area allocated to the special use, an increase in development coverage, or an increase in the intensity of use, e.g., an increase in traffic or need for on-site parking.
- I. Expiration of special use permits. The grant of a special permit shall authorize only one special permit use and shall be limited only to the use described and approved in such permit. Special permits shall be deemed to be indefinite authorization unless otherwise specified in the approval thereof, but in any case shall expire within 18 months of the date of all regulatory approval unless certificates of occupancy or use have been issued for the special permit use. Such period may be extended on separate application to the Planning Board. In addition, the special use permit shall be deemed to have expired if all improvements are not maintained and all conditions and standards complied with throughout the duration of the special use permit.
- J. Inspections. In connection with the issuance of a special use permit, the Planning Board may establish a schedule of inspection to be conducted by the Code Enforcement Officer to determine continued compliance with this chapter and any conditions of the special use permit.
- K. Renewal. As a condition of approval, the Planning Board may require that special use permits be renewed periodically. Thirty days prior to the expiration of a special use permit, the applicant shall apply to the Code Enforcement Officer for renewal of the special use permit. The Code Enforcement Officer shall inspect the premises to verify that the conditions of the permit have been met. Upon a finding that there are no violations and no

complaints have been lodged against the applicant, the special use permit shall be renewed by the Code Enforcement Officer for a time period equal to the original special use permit approval. However, where the Code Enforcement Officer finds that the applicant is in noncompliance with the special use permit, or that complaints have been lodged against the applicant, then such renewal shall require Planning Board approval and may be granted only following due public notice and hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit. Notices of violation pursuant to Article XI, Enforcement, shall be prima facie evidence of lack of conformity to such standards or conditions.

- L. Fees. Application for a special use permit shall be accompanied by a fee to be established in the fee schedule duly adopted by the Fallsburg Town Board.

### **§ 310-6.3.1**

#### **A. Standards for special permit uses.**

- (1) Before granting approval to any special permit use, the Planning Board shall determine whether the proposed use will, among other things, satisfy the following considerations:
  - (a) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.
  - (b) That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located.
  - (c) That the public health, safety, general welfare or order of the Town will not be adversely affected by the proposed use in its location.
  - (d) That the use will be in harmony with and promote the general purposes and intent of the Comprehensive Plan and this chapter.
  - (e) That the character of the existing uses and approved future development in the district will not be adversely affected by the location of the proposed special permit use in the proposed location.
  - (f) That the use will not involve the damage or destruction of a building or property with historic value.
  - (g) That the use will not negatively impact the conservation of property values in the vicinity of the proposed specially permitted use and is among the most appropriate uses of land.
  - (h) The effect that the location of the proposed use may have on the increase of vehicular traffic congestion on public streets and highways.

- (i) That the proposed site provides adequate parking facilities to protect against hazardous traffic and/or parking conditions.
- (j) That the use will not have a deleterious effect on or overwhelm basic municipal services such as police, fire, public works, highway, or code enforcement, or on Town facilities such as public parks, or roadways.
- (k) That the site may support adequate and proper public or private facilities for water and for the treatment, removal or discharge of sewage, refuse or effluent (whether liquid, solid, gaseous or otherwise) that may be caused by or as a result of the proposed use.
- (l) Whether the use or materials incidental thereto or produced may give off obnoxious odors, smoke or soot or will cause disturbing emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and general welfare.
- (m) Whether operations of the special permit use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing or if proposed by the Town or by other governmental agencies.
- (n) Whether the use will negatively impact or impair the quality of one or more of the community's natural resources such as any water body, unfragmented forest, natural topography, critical environmental area, wildlife habitat, or property within agricultural district #4 with or without Prime Soils.
- (o) That the use will not risk contaminating or otherwise adversely impacting the quality or availability of the south Fallsburg-Woodbourne primary aquifer.

**B. Modifications and additions to special permit uses.**

- (1) An amendment or modification to an existing special permit use is any change in the size or configuration of the structures or appurtenances associated with the facilities constituting the special permit use. A change in the nature of the use of the lot(s) in question is to be considered a proposed new special permit use of the affected lot(s) and will require an application for and consideration of a special permit use.
- (2) Any amendment or modification of an existing special use will be subject to site plan review by the Planning Board pursuant to Article VII of this Chapter.
- (3) Subject to the foregoing, any amendment or modification will be limited to a twenty-five-percent expansion of the improved area subject to the special permit use as of right, but in the Planning Board's discretion, greater increases may be allowed where it is determined the health, safety, and welfare of the neighborhood

or Town residents will not be harmed. The amendment/ modification must be consistent with the presently permitted special use.

C. Each application for a special permit, a modification of or addition to a special permit shall be accompanied by a proposed site plan that shall comply with the following:

- (1) Building design and location. Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should generally be placed along the edges and not in the middle of open fields so as to preserve open space. They should also be sited so as to not protrude above treetops or the ridgelines of hills seen from public places and busy highways. Building color, materials and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.
- (2) Lighting and signage. Improvements made to the property should not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed dark sky compliant lighting and landscaped ground signs are preferred.
- (3) Parking and accessory buildings. Parking areas should generally be placed in the rear or side whenever possible and provide for connections with adjoining lots. Accessory buildings should also be located in the rear. If placement in the rear is not possible, parking lots should be located to the side with screening from the street.
- (4) Drainage systems. Storm drainage, flooding and erosion and sedimentation controls should be employed to prevent injury to persons, water damage to property and siltation to streams and other water bodies.
- (5) Driveway and road construction. Whenever feasible, existing roads onto or across properties should be retained and reused instead of building new, so as to maximize the use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas should reduce removal of tree canopy by restricting clearing and pavement width to the minimum required for safely accommodating anticipated traffic flows.
- (6) Construction on slopes. The crossing of steep slopes with roads and driveways should be minimized and building which does take place on slopes should be multistoried with entrances at different levels as opposed to regrading the site flat.
- (7) Tree borders. New driveways onto principal thoroughfares should be minimized for both traffic safety and aesthetic purposes, and interior access drives which preserve tree borders along highways should be used as an alternative. Developers who preserve tree borders should be permitted to recover density on the interior of their property through use of clustering.
- (8) Development at intersections. Building sites at prominent intersections of new developments should be reserved for equally prominent buildings or features which will appropriately terminate the street vistas. All street corners should be defined with buildings, trees or sidewalks.
- (9) Streets and sidewalks. Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends. Streets within residentially developed areas should be accompanied by on-street parking and a sidewalk on at least one side of the street. Sidewalks should also be provided

in connection with new commercial development adjacent to residential areas, and pedestrian access should be encouraged.

- (10) Setbacks. New buildings on a street should conform to the dominant setback line and be aligned parallel to the street so as to create a defined edge to the public space.
- (11) Adjacent properties. The proposed use should not have a detrimental impact on adjacent properties or the health, safety and welfare of the residents of the Town.
- (12) Conditioned approval. If the proposed use is one judged to present detrimental impacts with respect to noise, lighting, surface runoff, emissions or other similar factors, the Planning Board shall determine whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
- (13) Community impacts. The Planning Board shall consider whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation. The granting of an approval should not cause an undue economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use, and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire district expenses.
- (14) Hamlet. The hamlet is an important and integral part of the Town's culture and heritage. The hamlet represents historic, compact, developed areas within the largely rural regions of the Town. The character and quality of the Town would be permanently diminished if these small settlements were to disappear from the landscape. New development should be integrated into the hamlet centers in such a way that it improves upon the positive aesthetic aspects of the hamlet centers and ensures that these centers will be preserved. New buildings and additions to existing buildings should blend into the existing hamlet landscape to the maximum extent practical. In considering an application for a special permit within the Town's commercial and hamlet districts, the Planning Board shall consider the following:
  - (a) The architectural style of buildings (particularly where there are structures of historic or architectural significance within view of the site). A building's scale, proportion and massing. Scale deals with the relationship of each building to other buildings in the area. Proportion deals with the relationship of height to the width of the building and with the relationship of each part to the whole. Massing deals with the volume created by sections of a building.
  - (b) Rhythm of openings. The rhythm of openings refers to the number and spacings of windows and doors in a facade.
  - (c) Building materials and architectural details. The use of similar materials and textures will help a new building or restoration fit into the existing neighborhood.
  - (d) Exterior lighting shall be dark sky compliant. A lighting plan must identify the number, height and design of the lighting fixtures and the amount of light in



foot candles which shall not cause light pollution at or beyond the property lines.

- (e) Fences and walls, landscaping and paving materials to be used on the site.
  - (f) The mix of uses. No residential uses shall be located on a floor below a nonresidential use, and residential uses shall have separate access from the nonresidential uses.
  - (g) New construction. New construction shall be permitted, provided that it has sensitively maintained the existing character of adjacent and surrounding historic structures. This may be exhibited through architectural style and character, arrangement, texture, materials, details and ornamentation and the overall bulk and massing proposed.
  - (h) Parking. Off-street parking shall be wholly provided in the rear and/or one side yard, behind the front building line, and shall be screened from adjoining properties in accordance with the landscaping provisions hereof.
- (15) Wastewater. For uses not connected to public sewer, the conditions of approval for a Special Permit shall include an Operation and Maintenance Plan for any wastewater treatment system proposed for the use. Such Plan shall meet the requirements of NYSDOH and NYSDEC. Failure to comply with an approved Plan should be deemed a violation of any issued Special Use Permit.

### **§ 310-6.3.2 Individual standards for special uses.**

The following individual standards are hereby established for specific special permit uses:

**A. Bank, savings.**

1. Service lanes for drive-up windows or exterior-mounted automated teller machines shall be of sufficient length to allow for the stacking of vehicles entirely on-site and outside of ingress and egress driveways.
2. Surveillance cameras shall be provided to view and record all persons entering any automated teller machine facility located within the interior of a building or which shall view and record all activity occurring within a minimum of three feet in front of an automated teller machine located on an exterior wall of a building open to the outdoor air. The recordings made by such cameras shall be preserved by the bank for at least 30 days.

**B. Bed-and-breakfast. All bed-and-breakfasts shall comply with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and the rules and regulations promulgated thereunder.**

1. Minimum lot size required is the same as the zoning district requirements.
2. Minimum house size is 2,000 square feet.

3. The owner of the bed-and-breakfast must reside in and continue to reside in the dwelling as his/her/their principal residence. The owner will provide a sworn statement certifying to such residency upon request of the Code Enforcement Officer.
  4. The parcel improved by the bed-and-breakfast shall provide or establish two off-street parking spaces for the members of the owner's family residing in the dwelling unit as well as at least one parking space per room or unit let. Further, said parking spaces shall not be established or permitted in the front yard of the site and shall be located or screened from view so as to provide no variation from the residential character of the site.
  5. Each bed-and-breakfast shall be established, maintained and operated so as to preserve and compliment the residential character and integrity of the surrounding area.
  6. The number of paying guests accommodated per night shall not exceed 15 persons within a minimum number of three and a maximum number of eight guest rooms. Further, no guest shall stay for a period of time in excess of 14 consecutive days.
  7. Each bedroom occupied by a paying guest shall be equipped with a properly installed and functioning smoke detector. Further, a smoke detector shall be properly installed and functioning on or near the ceiling in the room or hallway from which each bedroom rented to paying guests exists.
  8. The Code Enforcement Officer shall be given such access to the dwelling as he/she deems necessary from time to time for the purpose of making inspections to ensure compliance with all federal, state and local codes, rules and regulations, including the New York State Uniform Fire Prevention and Building Code. Such inspections may be made with or without prior notice thereof.
  9. A single exterior sign may be established on the site of the bed-and-breakfast. Said sign shall not exceed 12 square feet in area. No ground sign shall be located less than 10 feet from the front property line or less than 20 feet from the side property line. Further, said sign shall be as unobtrusive as reasonably possible and may be illuminated by no more than two exterior uplit or downlit lighting fixtures which shall be shielded so as to prevent glare, etc.
  10. The driveway entrance or exit shall not exceed 15 feet in width.
- C. Car wash. Car-wash establishments may be permitted by the Planning Board subject to the following regulations:
1. Such establishments shall not be located closer than 400 feet to any residential district boundary line, school, hospital, nursing home, or other similar institutional use.

2. Vehicle waiting areas for car washes shall consist of at least two vehicle stacking spaces per washing bay, plus one drying space per washing bay.
  3. Waiting lines shall be clearly defined by approved markings or barriers and shall be physically separated from all other traffic movements.
  4. One parking space per vacuum cleaner shall also be provided and any additional parking deemed necessary by the Planning Board.
  5. Water supply and disposal shall be subject to approval by the Planning Board and Town Public Works Department. Water conservation and recycling is to be encouraged.
  6. Where gasoline service stations are either a principal use, or accessory use with car washes, the requirements of Subsection G shall also be adhered to when granting approval of such uses.
- D. Cellular towers. No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations. These regulations shall apply to all property within the REC, AG, B, and I Districts.
1. Exceptions.
    - a. Exceptions to these regulations are limited to new uses which are accessory to residential uses and lawful or approved uses existing prior to the effective date of these regulations.
    - b. Where these regulations conflict with other laws and regulations of the Town of Fallsburg, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.
  2. Special use standards.
    - a. Site plan. An applicant shall be required to submit a site plan as described in Article VII. The site plan shall show all existing and proposed structures and improvements, including roads, and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennas and justification for any land or vegetation clearing required.
    - b. Visual EAF. Additionally, the Planning Board shall require that the site plan include a completed visual environmental assessment form (visual EAF) and a landscaping plan addressing standards set forth in this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified

in the visual EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.

- c. Shared use. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennas on preexisting structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other preexisting structures as an alternative to a new construction.
  - 1. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes, including real property acquisition or lease required to accommodate shared use.
  - 2. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
- d. Setbacks. Towers and antennas shall comply with all existing setbacks within the affected zone. Additional setbacks may be required by the Planning Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities.
- e. Visibility. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
  - 1. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e., monopoles or guyed towers) shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

2. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- f. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special permit use. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
  - g. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required: For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
  - h. Access and parking. Public road standards may be waived in meeting the objectives of this subsection. Parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal site disturbance.
3. Authority to impose conditions. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan.
  4. Removal upon abandonment. Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use.
- E. Day-care centers. Day-care centers may be accessory to a house of worship, community building, hospital, public or private school, office building, or public recreation center and shall have no unsafe conditions for picking up or dropping off of children; outdoor play areas enclosed and adequately separated from vehicular circulation and parking areas; and one off-street parking space per employee. All applicable state regulations shall be complied with at all times.
  - F. Family and group care facilities. Family and group care facilities may be permitted by special permit of the Planning Board subject to the following standards:
    1. Such facilities shall in all cases comply fully with the licensing requirements of the State Department of Mental Hygiene or other designated authority.

2. In order to prevent the concentration of family and group care facilities and impaction of a neighborhood by a concentration of these facilities, the Planning Board shall exercise discretion in considering such special permit application in order that the total population of such facilities shall in no case exceed the accepted conventional residency of the structure in which such use is to be conducted.
  3. The Planning Board may require as a condition of approval any safeguards necessary to protect the character and value of lands in the area, including requirements for reservation of lands or funds to increase public recreational facilities supportive of such facilities. Additionally, where such facilities are eligible for tax exemption, the Planning Board is encouraged to request an equitable payment of fees in lieu of taxes to offset the costs of public services to such facilities.
- G. Gasoline service stations/repair garages. By special permit of the Planning Board, gasoline service stations/repair garages are permitted in allowed districts. Additionally, gasoline service stations/repair garages must comply with the following conditions:
1. Ingress and egress. Ingress and egress points for gasoline service stations/repair garages shall be located a minimum of 80 feet from the intersection of right-of-way lines on a Town road and shall comply with requirements with respect to state or county roads.
  2. Lot coverage. Lot coverage for gasoline service stations/repair garages shall not be more than 40% of the site.
  3. Setback. Pump islands shall be set back at least 50 feet from street line and property lines.
  4. Buffer. A twenty-foot-wide landscaped area shall be provided alongside rear property lines. The landscaped area shall be densely planted with a mixture of shrubs, trees and a fence, not less than six feet high, which will create an opaque screen.
  5. Landscaping. Shall be provided in accordance with §§ 310-5.10 and 310-8.5.
  6. Vehicle storage. All vehicles awaiting repair shall be stored within a repair bay or in a temporary holding area to the rear of the service station.
- H. Kennels. Kennels may be permitted by the Planning Board subject to the following regulations:
1. Any application for an animal kennel shall stipulate the maximum number and type of animals to be boarded, harbored or trained.
  2. The harboring, boarding or training of animals, whether enclosed in a structure or on open land and whether or not accessory to other principal uses of the land, shall be conducted in accordance with the following general standards:

- a. In considering the application for an animal kennel use, the Planning Board may consider the number, size, the breed and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact, and safety of the animals sheltered in order to insure the health, safety and general welfare of the community.
  - b. No animals shall be kept or harbored within 500 feet of the property boundaries, and animals shall be kept or harbored a minimum of 1,000 feet from the nearest residence.
- I. (Reserved)
- J. Hotels, resort hotels, extended-stay hotels and motels. Hotels, resort hotels, extended-stay hotels and motels may be permitted by the Planning Board as provided herein subject to the following regulations:
  - 1. Each guest room shall have an area of at least 250 square feet. Each guest unit shall have a bath facility with shower or bath, one toilet facility and sink.
  - 2. The following accessory uses may be permitted:
    - a. Accommodation with or without kitchen facilities for the use of the hotel or motel manager or caretakers and their families.
    - b. Restaurants and/or coffee shops or cafeterias providing food and drink, provided such are integral to the hotel or motel.
    - c. Amusements and sports facilities for the guests and general public, including but not limited to:
      - 1. Swimming pool.
      - 2. Children's playground.
      - 3. Tennis and other game courts.
      - 4. Game or recreation rooms.
      - 5. Day camps and children's nurseries.
    - d. Kitchenette that includes a sink, microwave oven, dishwasher, coffee pot, and/or refrigerator intended as a convenience to transient and extended-stay guests.
    - e. Meeting and/or conference rooms.

3. The mandatory provision of an office and lobby with public rest rooms that are Americans with Disabilities Act (ADA)2 compliant.
- K. Light industrial. Light industrial uses consisting of the assembly and/or fabrication of products from materials requiring no chemical or compressive processing shall be subject to the following standards:
1. Performance standards of § 310-5.19 shall be strictly adhered to. All applications under this section shall describe in detail the procedures and equipment to be utilized and shall further indicate the anticipated characteristics of the light manufacturing process in the framework of measurements provided by § 310-5.19.
  2. All uses, processing and storage shall be within fully enclosed structures, and no tanks, cupolas, vents, or other apparatus peculiar to the processing shall be visible outside the approved buildings. The facade of buildings and structures in light manufacturing uses shall be compatible with adjacent development, and the lot shall be fully landscaped.
- L. Quarry operations. Quarrying operations for sand, gravel or other aggregate limited solely to the removal of the product from the earth and its loading for transportation. Washing, screening, crushing or other processing shall be permitted at the site only in conformity with the performance standards of § 310-5.19 and the regulations of the zoning district in which the use is located and, if applicable, a New York State Department of Environmental Conservation permit is obtained. In addition, the following conditions shall prevail:
1. No special permit shall be valid for a period of more than 18 months. The Planning Board may issue successive permits within six months of expiration.
  2. The applicant shall file a proposed plan for site rehabilitation and shall post a performance bond in a form which is satisfactory to the Town Attorney and the Town Board in a sum sufficient to secure such rehabilitation.
  3. Rehabilitation of any worked-out areas shall be commenced notwithstanding that quarrying operations are still in progress at the site, provided such rehabilitation shall not unduly interfere with continued operations.
  4. All topsoil shall be stripped and stored at the site for resspreading after the use has been completed. No topsoil can be removed from the site.
  5. Private access roads shall be maintained with a dustless surface as designated in the site plan.
  6. Excavations shall be properly fenced and/or graded and/or restored so as not to constitute a safety hazard, and the Code Enforcement Officer shall have the right of inspection thereof. The Code Enforcement Officer may, after report and authorization by the Planning Board, make such order as may be necessary to secure compliance with this provision.



7. No excavation, blasting, or stockpiling of materials shall be located within 300 feet of any public road or other property line.
8. No sorting machinery or crushers shall be located within 600 feet of any public road or other property line, and all such machinery shall be equipped with satisfactory dust-elimination devices.
9. All excavation slopes in excess of one to one shall be adequately fenced as to be determined by the Code Enforcement Officer.
10. Expansion of an existing nonconforming quarrying operation is prohibited.
11. The Planning Board may impose additional restrictions upon the days and hours of operation to adequately protect adjoining uses and the community at large. In no case shall operations be allowed prior to 8:00 a.m. or after 7:00 p.m. or dusk (whichever is earlier) or on Saturday, Sunday or public holidays, if such use on the property is within 1,500 feet of an occupied dwelling unit.
12. The provisions of Title 6 CRRNY Chapter IV, Subchapter D, apply to quarry operations from which 1,000 tons or 750 cubic yards of minerals, whichever is less, are to be removed from the earth within 12 successive calendar months, and the regulations set forth therein supersede all local laws relating to mining and reclamation.

M. Self-storage facility.

1. Self-service storage facilities shall be limited to long-term storage use only. No activities other than rental of storage units and pickup and deposit of long-term storage items shall be allowed; "long-term storage" will be defined as the storage of goods or materials for a period of 30 days or greater.
2. Prohibited activities within a self-service storage facility include but are not limited to the following: commercial wholesale or retail sales; auctions, garage sales or flea markets; servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or similar equipment; the operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of transfer storage businesses; and any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations, but nothing contained herein shall prohibit enforcement of the provisions of the New York State Lien Law. None of the aforementioned conditions shall restrict the facility owner from performing maintenance on this facility.
  - a. All rental contracts shall include clauses prohibiting:
    1. The storage of flammable liquids and highly combustible, radioactive or explosive materials, hazardous chemicals or substances considered illegal under state or federal statutes.

2. The use of property for uses other than long-term storage.
3. Short-term storage of items for the intent of warehousing activities and/or for retail sales.
3. The owner shall inspect each storage unit for cause or at a period no greater than once yearly. The owner shall maintain records of his or her inspections and make them available to the Code Enforcement Officer upon request.
4. Interior parking lanes shall be provided adjacent to the storage units. Such lanes shall be provided parallel to the storage units. Such lanes shall be a minimum of 12 feet in width.
5. Interior maneuvering lanes shall be provided around all buildings. For one-way circulations, lanes of 12 feet shall be provided. For two-way circulation, 24 feet shall be provided. Drives shall be surfaced with asphalt or oil and chip or some other hard-packed material capable of sustaining the weight of fire equipment. All interior travel lanes shall be posted to prohibit parking.
6. All self-storage structures shall be set back a minimum of 200 feet from the front lot line.
7. Landscaping. Plantings shall be provided in all yards facing public rights-of-way to visually screen the storage units from public view. An earthen berm along the public right-of-way along with plantings is recommended to screen self-storage units from public view. The requirements of § 310-5.10, Landscaping and buffering, and § 310-8.5 shall also apply.
8. Security. The entire site shall be designed to minimize the potential for vandalism or criminal activity. Any fencing shall be approved by the Planning Board as to material, height and color.
9. Site lighting shall be provided and shall be directed or shielded to prevent glare on adjacent properties or roadways and subject to Planning Board approval in accordance with this section.
10. Hours of operation for self-storage facilities shall be limited to the hours of 6:00 a.m. to 11:00 p.m. daily.
11. Signs shall be installed in accordance with applicable provisions of Chapter 234, Signs; however, no signs shall be permitted on any portions of the security fencing.
12. Rental unit size shall be limited to a maximum of 400 square feet.

13. No building shall exceed 35 feet in height nor shall any single self-storage structure be longer than 150 feet in length.
14. Buildings shall be designed and oriented to reduce the visual impact on adjacent properties and existing roadways. The Planning Board may impose conditions related to height, building materials, and color in order to reduce potential visual impacts.
15. All storage shall be within the building walls.

N. Vacation campgrounds. Vacation campgrounds are permitted subject to the following:

1. Vacation campgrounds are a special permit use consisting of a tract of land designed exclusively for overnight and short-duration vacation camping, providing facilities for tents, recreational vehicles, recreation activities, administration, public health and safety.
2. Minimum frontage: 200 feet of frontage on a paved public highway. Where a parcel of land does not meet this requirement, a minimum frontage of 50 feet may be permitted for use as an easement for gaining access to a larger parcel that would otherwise meet the requirements of the special permit use. The frontage yard of such a parcel shall begin at the point where a line running parallel with the public highway equals 200 feet.
3. Minimum spacing between campsite pads shall be 80 feet (extremity to extremity).
4. Water supply. The site shall be serviced by a public or private water system. A minimum rate of 200 gallons per day per site shall be provided at a minimum pressure of 20 pounds per square inch at peak demand. An adequate supply of potable water shall be provided within 250 feet of all campsites. One water spigot with soakage pit or other disposal facilities shall be provided for each 10 campsites without water facilities.
5. Sewage disposal. The site shall be provided with a public or private sanitary sewage disposal system subject to the following requirements:
  - a. Toilets. Only flush toilets shall be provided.
    1. Women: one toilet per five sites.
    2. Men: one toilet per 10 sites.
    3. ADA compliant: In accordance with ADA requirements.
    4. A minimum of two toilets for each sex shall be provided.

- b. Lavatories shall be provided at a ratio of one for each 15 sites (without water and sewage hookups) for each sex.
  - c. Showers: one shower for each 15 campsites shall be provided. Each shower must be served with hot and cold water. Two showers must be provided for each sex.
  - d. Sewer treatment facility. The design shall be based on the water supply design flow plus infiltration and approved by the Town, and State Department of Health (NYSDOH). At least one travel-trailer sanitary dumping station shall be supplied for every 100 campsites or less. The location of septic tanks, distribution lines and disposal fields shall be as approved by the Town and NYSDOH.
6. (Reserved)
7. Solid waste disposal: in accordance with § 310-4.7H and Planning Board requirements.
8. Vehicular access. Each campground area shall be provided with two means of access from public roads. Sight distance at the entrance and exit must be unobstructed for a distance of 300 feet in each direction. In the event that two separate means of access cannot be provided due to a lack of adequate sight distance at the point of access or egress, or due to limited frontage, the Planning Board may approve an alternate design that will ensure adequate safety. An adequate turnaround for emergency vehicles shall be provided on non-through streets.
9. Streets. Each campground shall provide a collector street with a minimum width of 18 feet for two-way traffic and 10 feet for one-way traffic. As a minimum, the street shall be constructed with a gravel base with adequate drainage as approved by the Planning Board. Radius of curvature shall be 50 feet minimum. Grades shall not exceed 12%. The surface of all interior roads shall be dustless.
10. Parking. A fourteen-foot-by-fifty-foot level space shall be provided for each campsite within which a ten-foot-by-fifty-foot strip shall be constructed, as a minimum, with a gravel base and dustless surface. Forty-five-degree pull-through trailer and motor home parking spaces shall be constructed, as a minimum, with a gravel base and a water-bound macadam surface.
11. Lighting. Sufficient exterior illumination of the site shall be required to provide convenience and safety in accordance with § 310-5.11.
12. Landscaping. The entire site except for areas covered by structures, service or parking areas shall be suitably landscaped. All landscaping shall be approved by the Planning Board and properly maintained after planting.
13. Screening. All campground sites shall be screened from the view of adjacent properties and adjoining public highways by means of an opaque screen of plant materials and/or

fencing. All screening shall be approved by the Planning Board, properly maintained after placement and located within the required front, rear and side yards.

14. All campground sites shall provide suitable recreation area or areas on the site containing not less than 10% of the camp ground site and shall include a suitably improved, fenced and equipped children's play area.
  15. Living quarters for the resident manager or property owner shall be provided within a permanent structure, meeting the requirements of the New York State Uniform Fire Prevention and Building Code. The resident manager or a caretaker shall be on the premises on a regular basis, as determined by the Code Enforcement Officer (CEO), to guard against vandalism during the off-season. No other living quarters are permitted on the site other than designated campsites.
  16. Recreational facilities such as golf courses, tennis, swimming pools, and camp recreational facilities shall meet the requirements for setbacks for recreational uses.
  17. Fire protection. The property owner shall insure that adequate fire protection equipment is on the premises at all times, as approved by the CEO. Inner traffic circulation drives and roads shall be plowed and maintained year-round, to allow for continuous access by emergency vehicles, even when the facility may be closed for the season, unless a waiver is granted by the Town Board pursuant to § 310-6.1C of this chapter.
  18. Phone. Each campground shall have at least one phone that is accessible to the public for emergency calls.
  19. Vacation campgrounds shall be inspected every 24 months for code compliance, pursuant to Chapter 100, Article IV, §§ 100-23 through 100-26.
  20. Fees. The fee shall be in accordance with the Standard Schedule of Fees of the Town of Fallsburg.
- O. Veterinary hospital. All facilities shall be maintained in enclosed structures which shall be of soundproof construction and so maintained as to produce no dust or odor at the property line. If a kennel is proposed, it shall comply with Subsection H of this section.
- P. Camp, sleepaway. Sleepaway camps are permitted subject to the following:
1. Minimum frontage: 200 feet of frontage on a paved public highway.
  2. The principal use of the sleepaway camp shall be intended for the seasonal attendance of children up to the age of 18 years for overnight occupancy. The minimum lot size for a sleepaway camp use shall be 25 acres.

3. Layout. Camp facilities shall be designed so as to be consistent with the character of the surrounding neighborhood and operated so as to reasonably safeguard the peace, welfare and comfort of neighboring residents and their places of residence.
4. Operation plan. The applicant for a sleepaway camp shall submit annually a copy of a camp safety plan as required by Title 10, SubPart 7-2, Children's Camps, of the New York State Public Health Law, concurrent with its required submission to the New York State Department of Health district office for Sullivan County.
5. No recreational vehicle or tent campsites, or any other transient or overnight camping accommodations, shall be offered to noncampers.
6. All sleeping accommodations, recreational facilities and activity areas shall be set back no less than 100 feet from any property line, but the Planning Board may increase said setback where it determines same is necessary to protect the health, safety and welfare of adjoining residences or residential zoning districts. The setback shall consist of evergreen or deciduous trees or shrubs to provide full visual screening during the time of the camp's occupation. Where existing vegetation does not meet this requirement, the Planning Board shall require that additional landscaping be provided. The entire site, except for areas covered by structures, service or parking areas, shall be suitably landscaped. All landscaping shall be approved by the Planning Board and properly maintained after planting.
7. Recreational facilities are allowed as accessory uses and include but are not limited to swimming pools, tennis courts, playgrounds, ball fields, and similar facilities.
8. Noise. A public-address system or any other amplified noises shall not be audible beyond the property line.
9. Legally existing, nonconforming sleepaway camps. Legally existing, nonconforming sleepaway camps shall not be required to obtain a special use permit, nor be required to relocate preexisting buildings or structures, until such time as an application is made for a special use permit for expansion or alteration of the use. Such applications for a special use permit for expansion or alteration of a legally existing, nonconforming sleepaway camp shall be subject to the requirements and procedures of § 310-9.3G.
10. Season of operation. The sleepaway camp operating season shall be established by the Planning Board but shall in no event commence earlier than June 1 nor extend later than September 15. Covenants precluding year-round occupancy shall be recorded in the County Clerk's office. Any sleepaway camp facility that wishes to operate with a longer operating season may apply to be converted to a retreat as defined in § 310-2.2, and shall adhere to the regulations set forth in § 310-6.3R below, as well as to the regulations set forth in § 310-9.3G, as applicable, if the facility is legally nonconforming.

11. The maximum number of camper or staff beds permitted shall be established based on the requirements below. A sleepaway camp is allowed one camper or staff bed per 2,800 square feet of net lot area. There shall be no less than one supervisory employee per 10 children. The maximum number of beds for campers or staff in dormitories, bunkhouses, cabins, or other group quarters without cooking facilities shall be calculated by dividing the net acreage of the site by 2,800 square feet. Net acreage shall be determined by subtracting out the following from the gross acreage of the site:
  - a. Environmental constraints as required in § 310-5.4; and
  - b. The lot area allocated and devoted to any other principal buildings on the lot; and
  - c. The lot area required for any dwelling unit(s) for resident manager(s) or property owner(s), per Subsection P(15) below.
12. Water supply. The site shall be serviced by a public or private water system.
13. Sewage disposal. The site shall be provided with a public or private sanitary sewage disposal system.
14. Vehicular access. Each camp area shall be provided with two means of access from public roads. Sight distance at the entrance and exit must be unobstructed for a distance of 300 feet in each direction. In the event that two separate means of access are prohibited by state or county review, or cannot be provided due to a lack of adequate sight distance at the point of access or egress, or due to limited frontage, the Planning Board may approve an alternate design that will ensure adequate safety. An adequate turnaround for emergency vehicles shall be provided on-site.
15. Living quarters for any resident manager(s) and/or property owner(s) who live separately from campers or counselors who sleep in dormitories, cabins, bunkhouses or other such group quarters without cooking facilities shall be provided within a permanent structure, meeting the requirements of the New York State Uniform Fire Prevention and Building Code. Such living quarters apart from camper and counselor staff beds in group quarters shall contain its own cooking facilities, and shall be treated as a dwelling unit for the purposes of this chapter. The minimum lot area required for a dwelling unit in the district in which the camp is located shall be required to be provided for each such unit of resident manager or property owner living quarters. The required minimum lot area(s) for the living quarter unit(s) for resident manager(s) or property owner(s) shall be subtracted from the gross lot area before calculating the maximum number of camper or staff beds in group quarters permitted at the sleepaway camp, per Subsection P(11) above. The resident manager or a caretaker shall be on the premises on a regular basis, as determined by the Code Enforcement Officer (CEO), to guard against vandalism during the off-season.
16. Fire protection. The property owner shall insure that adequate fire protection equipment is on the premises at all times, as approved by the CEO. Inner traffic circulation drives

and roads shall be plowed and maintained year-round, to allow for continuous access by emergency vehicles, even when the facility may be closed for the season, unless a waiver is granted by the Town Board pursuant to § 310-6.1C of this chapter.

17. Phone. Each campground shall have at least one phone that is accessible to the public for emergency calls.
18. Inspection. At all reasonable times, the Code Enforcement Officer may visit and inspect the property for the purpose of determining whether the sleepaway camp is being operated in compliance with this section.
19. Sleepaway camps shall be inspected every 24 months for code compliance, pursuant to Chapter 100, Article IV, §§ 100-23 through 100-26.
20. Fees. The fee shall be in accordance with the Standard Schedule of Fees of the Town of Fallsburg.

Q. Camp, day.

1. Minimum frontage: 200 feet of frontage on a paved public highway.
2. The principal use of the day camp shall be intended for the seasonal, daily attendance of children between the ages of four and 18 and not for overnight occupancy. The minimum lot size of a day camp use shall be 25 acres.
3. Layout. Day camp facilities shall be designed so as to be consistent with the character of the surrounding neighborhood and operated so as to reasonably safeguard the peace, welfare and comfort of neighboring residents and their places of residence.
4. Operation plan. The applicant for a day camp shall submit annually a copy of a camp safety plan as required by Title 10, SubPart 7-2, Children's Camps, of the New York State Public Health Law, concurrent with its required submission to the New York State Department of Health district office for Sullivan County.
5. No recreation vehicle or tent campsites, or any other transient or overnight camping accommodations shall be offered to noncampers.
6. All recreational facilities and activity areas shall be set back no less than 100 feet from any property line, but the Planning Board may increase said setback where it determines same is necessary to protect the health, safety and welfare of adjoining residences or residential zoning districts. The setback shall consist of evergreen or deciduous trees or shrubs to provide full visual screening during the time of the camp's occupation. Where existing vegetation does not meet this requirement, the Planning Board shall require that additional landscaping be provided. The entire site, except for areas covered by structures, service or parking areas, shall be suitably landscaped. All



landscaping shall be approved by the Planning Board and properly maintained after planting.

7. Recreational facilities are allowed as accessory uses and include but are not limited to swimming pools, tennis courts, playgrounds, ball fields, and similar facilities.
8. Noise. A public-address system or any other amplified noises shall not be audible beyond the property lines.
9. Existing day camp. Nothing herein shall require a preexisting day camp to obtain a special use permit or require the relocation of preexisting buildings or structures. At such time that a preexisting child day camp submits a special use permit for expansion or alteration of the use, the new facilities shall comply with these standards. Nothing herein shall require that a preexisting day camp obtain an area variance applicable to the minimum lot area.
10. Season of operation. The day camp operating season shall be established by the Planning Board but shall in no event commence earlier than June 1 nor extend later than September 15. Covenants precluding year-round occupancy shall be recorded in the County Clerk's office. Any day camp facility that wishes to operate with a longer operating season may apply to be converted to a retreat as defined in § 310-2.2, and shall adhere to the regulations set forth in § 310-6.3R below, as well as to the regulations set forth in § 310-9.3G, as applicable, if the facility is legally nonconforming.
11. The maximum number of campers and staff shall be established based on the area of the site, excluding any dwelling units for resident manager(s) or property owner(s) per Subsection Q(15), and any environmental constraints. A day camp is allowed one camper or staff member per 2,800 square feet of net lot area. There shall be no less than one supervisory employee per 10 children. The maximum number of campers and staff shall be calculated by dividing the net acreage of the site by 2,800 square feet. Net acreage shall be determined by subtracting out the following from the gross acreage of the site:
  - a. Environmental constraints as required in § 310-5.4; and
  - b. the lot area allocated and devoted to any other principal buildings on the lot; and
  - c. The lot area required for any dwelling unit(s) for resident manager(s) or property owner(s), per Subsection Q(15) below.
12. Water supply. The site shall be serviced by a public or private water system.
13. Sewage disposal. The site shall be provided with a public or private sanitary sewage disposal system.

14. Vehicular access. Each camp area shall be provided with two means of access from public roads. Sight distance at the entrance and exit must be unobstructed for a distance of 300 feet in each direction. In the event that two separate means of access cannot be provided due to a lack of adequate sight distance at the point of access or egress, or due to limited frontage, the Planning Board may approve an alternate design that will ensure adequate safety. An adequate turnaround for emergency vehicles shall be provided on-site.
15. Living quarters for any resident manager(s) and/or property owner(s) shall be provided within a permanent structure meeting the requirements of the New York State Uniform Fire Prevention and Building Code. Such living quarters shall contain its own cooking facilities, and shall be treated as a dwelling unit for the purposes of this chapter. The minimum lot area required for a dwelling unit in the district in which the camp is located shall be required to be provided, for each such unit of resident manager or property owner living quarters. The required minimum lot area(s) for the living quarters of resident manager(s) or property owner(s) shall be subtracted from the gross lot area before calculating the maximum number of campers and staff permitted at the day camp, per Subsection Q(11) above. The resident manager or a caretaker shall be on the premises on a regular basis, as determined by the Code Enforcement Officer (CEO), to guard against vandalism during the off-season.
16. Fire protection. The property owner shall insure that adequate fire protection equipment is on the premises at all times, as approved by the CEO. Inner traffic circulation drives and roads shall be plowed and maintained year-round, to allow for continuous access by emergency vehicles, even when the facility may be closed for the season, unless a waiver is granted by the Town Board pursuant to § 310-6.1C of this chapter.
17. Phone. Each day camp shall have at least one phone that is accessible to the public for emergency calls.
18. Inspection. At all reasonable times, the Code Enforcement Officer may visit and inspect the property for the purpose of determining whether the day camp is being operated in compliance with this section.
19. Day camps shall be inspected every 24 months for code compliance, pursuant to Chapter 100, Article IV, §§ 100-23 through 100-26.
20. Fees. The fee shall be in accordance with the Standard Schedule of Fees of the Town of Fallsburg.

R. Retreat/religious retreat.

1. Minimum frontage: 200 feet of frontage on a paved public highway. The minimum lot size shall be 25 acres.

2. An overall plan of land and structure development and use and an associated program for facility operation and management shall be depicted within a retreat master plan report. The master plan report shall include a facility-wide master site plan at a scale of not less than one-inch equals 100 feet and related narrative at a suitable level of detail to describe the following features of the retreat:
  - a. The existing and proposed use designation for all land included within the application for special use permit.
  - b. The intended development of each of the designated use areas, including a graphic depiction of major buildings and their intended uses and occupancies, parking areas, other structures and principal open spaces, whether existing or proposed, including a tabular presentation of acreage, building square footage, guest rooms, classroom or conference seating occupancies, parking requirements and other quantifiable factors by use.
  - c. The proposed pattern of vehicular and pedestrian circulation throughout the campus site.
  - d. The proposed program and facilities for satisfying water supply, sewage disposal and related infrastructure demands.
  - e. The proposed methods of preserving the natural and man-made resources of the retreat site, including but not limited to the exterior of existing historic or architecturally significant structures, landscaping, stone walls, entrance gates, woodlands, streams, ponds, marshes, steep slopes and other amenities.
  - f. The intended program and schedule for development of all elements depicted on the facility-wide master site plan, including a discussion of the extent of retreat development that will be in place at the conclusion of each of the project's phases, if phasing is proposed.
3. The primary use of the retreat shall be for religious activity, worship, contemplation, educational, spiritual or personal growth purposes. The maximum number of beds for retreat participants shall be established based on the requirements below. A retreat is allowed one guest or staff bed per 2,800 square feet of net lot area. The maximum number of beds for campers or staff in dormitories, bunkhouses, cabins or other group quarters without cooking facilities shall be calculated by dividing the net acreage of the site by 2,800 square feet. Net acreage shall be determined by subtracting out the following from the gross acreage of the site:
  - a. Environmental constraints as required in § 310-5.4; and
  - b. The lot area allocated and devoted to any other principal buildings on the lot; and

- c. The lot area required for any on-site dwelling unit(s) for resident manager(s) or property owner(s).
  1. The minimum lot area required in this chapter for a dwelling unit, for the zoning district in which the retreat is located, shall be subtracted from the gross lot area, per Subsection R(3)(c) above, for any private living quarters for resident manager(s).
4. The retreat shall be served by public or private water supply and sewage facilities.
5. Deed restrictions or other agreements satisfactory to the Planning Board shall be required to ensure that the guest units serve their intended objective and that common open space, roadways and other facilities serving the retreat shall be owned and maintained in accordance with the Town, the Sullivan County Health Department, New York State and other requirements.
6. Nonresidential uses. Nonresidential uses related to the function of the retreat and serving the guests may be permitted if described within the retreat master plan report and approved by the Planning Board. Such uses shall additionally conform to any applicable standards set forth elsewhere in this Zoning Chapter.
7. The retreat shall be directly accessible from a state or county highway or by at least two Town roadways other than residential subdivision streets.
8. All buildings and other structures, parking and other outdoor activity areas associated with the retreat shall have a minimum setback of 100 feet from any property line and 100 feet from any existing neighboring residence.
9. Upon issuance of a special use permit for the retreat, any development of the uses and related improvements described on the facility-wide master plan may be undertaken following project-specific site plan review and approval by the Planning Board.
10. A new application for special use permit shall not be required unless the intended development is either:
  - a. Not depicted within the retreat master plan report;
  - b. Substantially larger or more intensive than depicted in the campus master plan report; or
  - c. Inconsistent with any conditions which may have been attached by the Planning Board in issuing the special use permit, including consideration of project phasing or other requirements intended to mitigate potential environmental effects of retreat development.

11. Retreat layout. A retreat shall be designed so as to be consistent with the character of the surrounding neighborhood and operated so as to reasonably safeguard the peace, welfare and comfort of neighboring residents and their places of residence.
  12. Operation plan. The applicant for a retreat shall submit a preliminary operation plan identifying proposed operations, hours, capacity and staffing requirements. When in operation, copies of any required submissions to the New York State Department of Health shall be submitted concurrently to the Town when submitted to state or county health officials.
  13. Inspection. At all reasonable times, the Code Enforcement Officer may visit and inspect the property for the purpose of determining whether the retreat is being operated in compliance with this section.
  14. Retreats shall be inspected every 24 months for code compliance, and treated as a "seasonal camp" for inspection purposes, pursuant to Chapter 100, Article IV, §§ 100-23 through 100-26.
  15. Fees. The fee shall be in accordance with the Standard Schedule of Fees of the Town of Fallsburg.
- S. Solar energy systems, large-scale. Such establishments shall be subject to the requirements set forth in this section, including site plan approval, and shall be permitted in the following districts: REC, I, AG and PRD. Applications for the installation of a large-scale solar energy system shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Planning Board for its review and action, which can include approval, approval with conditions, and denial.
1. Special use standards. For a special permit application, the site plan application shall be supplemented by the following provisions:
    - a. Easements. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
    - b. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed including appropriate electrical details.
    - c. Landscaping. A landscaping plan according to § 310-5.10 shall be provided. The Planning Board reserves the right to request additional screening or vegetation to mitigate adverse environmental impacts.
    - d. Wiring. The location of the electrical wiring shall be provided. If the system is underground, a trench and backfill detail shall be provided.

- e. A phase one environmental site assessment shall be provided in accordance with ASTM E1527-13,. Standard Practice for Environmental Site Assessments.
- f. A habitat assessment for federal and New York State endangered and threatened species and New York State species of special concern shall be performed.
- g. Record drawings will be required and submitted to the Town of Fallsburg upon installation of the solar energy system.
- h. Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. Grass shall be kept below a maximum of six inches high. A contract with a local vendor is suggested.
- i. Visual impact assessment. A visual impact assessment shall be required for any system that is within five miles of an airport due to potential glare impacts or may have a substantial adverse effect on nearby residential properties. An impact assessment may also be required by the Town of Fallsburg Planning Board in accordance with any concerns from board members or the public.
- j. Decommissioning plan. To ensure the proper removal of large-scale solar energy systems, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section. The plan must specify that after the large-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the plan shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation and administration of the plan. Removal of large-scale solar energy systems must be completed in accordance with the plan. If the system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.
- k. Decommissioning and removal security. The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town Attorney and Town Board, and in an amount sufficient to pay for the costs and expenses of implementing the decommissioning plan. The amount is subject to approval by the Planning Board's professional engineer and the Planning Board. Such amount shall be reevaluated every five years thereafter and, if necessary, adjusted to reflect prevailing costs and expenses as a condition to continued operation of the system. The security may be in the form of cash, letter of credit or another instrument acceptable to the Town Attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system

equipment, structures, and materials have been properly removed and site restoration is complete. If the amount of the security does not fully cover such fees, costs and expenses ("costs") or if the Town cannot reasonably recover adequate proceeds of the security, then the owner and operator of the solar energy system and the property owner shall be jointly and severally, and corporately and personally, liable for the costs not recovered. In addition, the Town may assess such costs against the property, which assessment shall constitute a lien on the property, and which amount may be collected in the same manner as real property taxes.

2. Design standards.

- a. Height. Large-scale solar energy systems shall adhere to the height requirements of the underlying zoning district.
- b. Spacing. Rows between panels, as measured from pole to pole, should be at least 22 feet.
- c. Setback. All large-scale solar energy systems shall maintain at minimum a one-hundred-foot setback along the perimeter of the property. Additional setback shall be required if more than 285 linear feet of panels are shown on the site plan according to the following formula:
  1. For every 10 feet of panels, one row spacing included: one foot of additional buffer shall be provided.
  2. All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The Town of Fallsburg Planning Board shall determine the type and size of fencing.
  3. Any application under this section shall meet any substantive provisions contained in local site plan requirements in the Zoning Code that, in the judgment of the Town of Fallsburg Planning Board, are applicable to the system being proposed.
  4. The Town of Fallsburg Planning Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

3. Inspection, safety, and removal.

- a. The Town of Fallsburg reserves the right to inspect a solar energy system for building or fire code compliance and safety. Easements providing access to the Town for this purpose shall be provided.

- b. Provide a site-specific emergency action plan (EAP) including general safety concerns, associated precautions, description of deenergizing action and any other potential concerns in a brief narrative form. Drawing(s) showing switchgear and disconnection locations should be provided. This information is to be provided to the local fire department, police, ambulance, and the Town personnel with listed contacts on the EAP. The local Fire Department shall approve the EAP and be trained in deactivating the solar energy system.
  - c. If, upon inspection, the Town of Fallsburg determines that a fire or building code violation exists, or that the system otherwise poses a safety hazard to person(s) or property, the Town of Fallsburg may order the facility owner to repair or remove the system within 30 days or an alternative amount of time determined by the Code Enforcement Officer.
- 4. Abandonment and decommissioning.
  - a. Solar energy systems are considered abandoned after six months without electrical energy generation and must be removed from the property. Two applications for extensions may be granted by the Planning Board for a period of three months each.
  - b. If a facility owner fails to repair or remove a solar system as ordered, and the appeal rights have been exhausted, the Town of Fallsburg may enter the property, remove the system, and charge the facility owner for all costs and expenses of removal. Any unpaid costs will result in a lien on the property.
- 5. Enforcement. Any violation of the solar energy law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Fallsburg.
- 6. Permit requirements.
  - a. Only commercially made solar energy systems are permitted.
  - b. Before any construction or installation of any solar photovoltaic system shall commence, a licensed electrician must be identified and a third-party inspection must be completed by a certified electrical inspector to document compliance with this chapter. The applicant must then obtain a building permit from the Town of Fallsburg.
  - c. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.

T. Retreat, Religious.



- a. Special Use Permits for a Retreat, Religious shall be reviewed under the criteria for Retreats set forth in subpart R of this Section.
- U. Religious Use.
  - a. In reviewing a Religious Use not otherwise defined in this Code for a Special Use Permit, the Planning Board shall apply the individual standards associated with the most analogous secular use to such Religious Use.
- V. Religious Camps.
  - a. Special Use Permits for Religious Camps shall be reviewed under the criteria for “Camp, Sleepaway” set forth in subpart P of this Section.
- W. Special Permit Uses in AG District.
  - a. All Special Permit Uses proposed in the AG district shall be prohibited from meeting their wastewater treatment requirements utilizing pre-fabricated wastewater package plants.

#### **§ 310-6.4. Appeal.**

Denial of a special use permit by the Planning Board shall not be subject to appeal before the Zoning Board of Appeals. Any person aggrieved by a decision of the Planning Board hereunder shall, within 30 days of the filing of the decision, apply to a court of competent jurisdiction pursuant to Article 78 of the Civil Practice Law and Rules.