



# ZONING UPDATE

VILLAGE OF FALCONER



FINAL DRAFT - OCTOBER 2020



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# Article 1. General Provisions

## §134-1. Title and Purpose

This ordinance is adopted for the purposes of promoting the health, safety, and general welfare of the Village of Falconer. This shall be accomplished through the regulation and restriction of the construction, height, number of stories, and size of buildings and other structures, the size of setbacks, courts and other open spaces, the densities of population and location and use of buildings, structures and land for industry, business, residence, and other purposes; and through the division of the Village into districts; and through fines and penalties for the violation of provisions within this ordinance.

## §134-2. Enacting clause

The Village Board of Trustees of the Village of Falconer do enact as follows.

## §134-3. Short Title

This chapter shall be known and may be cited as the "Village of Falconer, New York, Zoning Ordinance."

## §134-4. Rules of Construction

- §134-4.1. This chapter shall be known and may be cited as the "Village of Falconer, New York, Zoning Ordinance."
- §134-4.2. Words used in the present tense include the future tense, and the singular number includes the plural and vice versa; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "building" includes the word "structure"; the words "shall" and "will" are mandatory; the word "should" is permissive and encouraged, the word "may" is permissive; the words "occupied" or "used" as applied to any land or building shall be construed as though followed by the words "intended, arranged or designed to be used or occupied."

## §134-5. Definitions and Word Usage

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

**ACCESSORY** – The term applied to a building, structure, or use (except for an accessory dwelling unit) that:

1. Is customarily incidental and subordinate to and serves a principal building or use served;
2. Is subordinate in area, extent, or purpose to the principal building or use served;
3. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and
4. Is located on the same parcel as the principal building or use.

**ACCESSORY DWELLING UNIT** – A self-contained apartment, auxiliary to and smaller in size than the primary dwelling, that is constructed within the interior or attached to a primary dwelling, or maintained on an owner-occupied lot in a separate detached structure on the same lot as the primary dwelling. Accessory dwelling units generally include living, sleeping, kitchen, and bathroom facilities and have a lockable entrance door.

**ADULT ENTERTAINMENT BUSINESS** – Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic tape and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word, picture, symbol or representation having like meaning or implication is used in any advertisement.

**ALTERATION** – As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, but not including normal maintenance or non-structural improvements.

**ANCILLARY PARKING AREA** – A parking facility that provides parking for a specific use or uses where the parking facility is not on the same lot but is within 100 feet of the use or uses. The ancillary parking facility shall be in the same ownership as the lot being served.

**ANIMAL RESCUE FACILITY** – A shelter or rescue facility dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged.

**ANTENNA** – The actual satellite antenna or any system of electrical conductors that transmits and/or receives radio frequency signals' electromagnetic waves. Such waves shall include cellular, paging and personal communications services (PCS). The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

**APPEAL** – A request by an interested party for reconsideration of a decision made by the Code Enforcement Officer or the Planning Board.

**APPLICANT** – A person filing an application in accordance with this Zoning Code who is:

1. The owner or lessee of property;
2. A party who has contracted to purchase property contingent upon that party's ability to acquire the necessary approvals required for that action in accordance with this Zoning Code, and who presents written authorization from the property owner to file an application with the Village; or
3. The agent of either of the above who presents written authorization from the property owner to file an application with the Village.

**APPLICATION** – The formal request by an applicant or developer, as those terms are defined herein, for any permit or approval by the Village Board of Trustees, Planning Board, Zoning Board of Appeals, or Code Enforcement Officer, along with the preparation of any and all plans and submittals submitted in connection therewith, including, but not limited to, any required review under the New York State Environmental Quality Review Act (SEQRA).

**BANKS OF FINANCIAL INSTITUTIONS** – Includes banks, credit unions, security brokerage firms, mortgage brokers, mortgage bankers, and any other businesses which offer similar services.

**BASEMENT** – A story that is partly underground with less than half of its clear height below finished grade.

**BED & BREAKFAST** – An owner-occupied building designed, used and occupied as a single-family residence having, as an accessory use therein, guest rooms and facilities for and serving breakfast prepared within the building to registered guests.

**BLOCK** – The length of a street between two intersections.

**BOARDINGHOUSE** – Any dwelling in which persons are housed or lodged for payment of rent on an extended basis. A structure or furnished rooming house shall be deemed a boardinghouse if more than one room within it is available to rent on an extended basis.

**BUILDING** – A structure with a roof supported by columns, walls, trees or inflated air, or a roof supported by any other means and having a horizontal area of more than 50 feet that is intended for the shelter, housing or enclosure of persons, animals or property.

**BUILDING, ACCESSORY** – A subordinate building, or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building. This shall include but is not limited to garages and sheds.

**BUILDING AREA** – The total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

**BUILDING, PRINCIPAL** – A building in which is conducted the principal or primary use of the lot on which it is situated.

**BUILD-TO-ZONE** – An area of a lot designated for placement of a building facade along a street, located parallel to a front property line. The Build-to Zone defines an area in which the locations of building fronts can vary within a specified range.

**CAMOUFLAGING** – The construction of facilities to house or support a telecommunications tower so that the tower blends readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging include, but are not limited to, silos, barns, windmills, and simulated trees.

**CARPORT** – An accessory structure made of canvas, aluminum, or similar materials, or any combination thereof, on moveable framing for the shade and shelter of one or more private passenger vehicles. These structures may or may not be enclosed by walls and are often attached to the principal building.

**CARRIER** – A provider of telecommunication services.

**CAR WASH** – A structure or building designed for the washing, waxing, and simonizing or similar treatment of automotive vehicles as its principal function. A fuel station having portable washing equipment shall not be deemed to be a car wash where such use is an accessory service to the principal service of the fuel station.

**CODE ENFORCEMENT OFFICER (CEO)** – An individual employed by the Village and authorized to enforce the provisions of this Chapter.

**COLLOCATED ANTENNA** – The use of existing telecommunications facilities and/or communications towers, buildings or other structures for placement of telecommunications antennae by more than one carrier to avoid construction of a new communications tower or facility.



**COMMERCIAL GARAGE** – Any area of land, including structures thereon, that is used or designed to be used for activities including but not limited to polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles.

**COMMON WALL BUILDING** – A building with a wall or walls shared by more than one building at the interior side or rear lot line. Also called a party wall.

**COMPATIBLE** – Having a complementary and congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure; two or more structures; two or more attributes of a neighborhood; or having a complementary and congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

**COMMUNICATIONS SYSTEMS** – All telecommunications facilities and/or communications towers, buildings, structures and equipment used in conjunction with radio frequency transmission.

**CORNER LOT** – A parcel of land at the junction of and fronting on two or more intersecting streets.

**COTTAGE** – A small, self-contained dwelling unit for one or more persons on the same property as a primary dwelling and containing provisions for living, sleeping, kitchen, and sanitary facilities for the exclusive use of the occupants.

**DECK** – An uncovered, platform-like structure attached to or abutting a building.

**DENSITY** – A unit of measurement; "density" means the number of dwelling units per acre of land.

**DEVELOPER** – Any person, firm, partnership, association, corporation, company, limited liability or entity or organization of any kind, whether or not an applicant as defined hereinabove, that constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development and to convey or dedicate same to the Village.

**DEVELOPMENT** – Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, or excavation.

**DISTRICT OR ZONE** – A portion of the territory of the municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

**DRINKING ESTABLISHMENT OR TAVERN** – Any building or structure which is not part of a larger restaurant and where alcoholic beverages are sold for on-site consumption. This includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages.

**DRIVE-THROUGH FACILITIES** – A building or use, which by design of physical facilities a product is sold to, or a service performed for, customers while they are in or near their motor vehicles, including but not limited to fast-food restaurants, drive-up bank tellers, etc.

**DRIVEWAY** – That portion of a lot extending from a permitted curb cut which is used for the purpose of ingress to or egress from the property and the parking of vehicles thereon.

**DRIVING AISLE** – A driving aisle is intended to be utilized for on-site vehicular circulation. All driving aisles shall be in accordance with the table in §134.26.6 of Article 6; however, the Planning Board may, upon a proper presentation, permit a narrower driving aisle.

**DWELLING** – A building or part of a building erected upon a permanent foundation constructed for and intended for occupancy as a residence by one or more families; the term shall not be deemed to include automobile court, hotel or motel, boarding house, tourist home, tent, or recreational vehicle. “Dwelling” may include but is not limited to the following types:

1. **MULTIFAMILY DWELLING** – A building of three or more dwelling units with common walls and floors designed for occupancy by three or more families living independently of each other; an apartment, town house, row house, condominium or mixed-use building. Multifamily dwelling units may or may not include outer entrances for each dwelling unit.
2. **SINGLE-FAMILY DWELLING** – A building designed exclusively as the living quarters for one family and including provisions for cooking, sleeping, and sanitary facilities. For the purposes of this ordinance, single-family dwelling may include attached single-family dwellings, detached single-family dwellings, and mobile homes.
3. **TWO-FAMILY DWELLING** – A building of two dwelling units with common walls and/or floors. Two-family dwellings are designed for occupancy by two families living independently of each other and may include outer entrances to each dwelling unit.

**DWELLING UNIT** – That part of a dwelling designed for use by one family only and containing one or more rooms and facilities for living, including cooking, sleeping, storage of possessions and sanitary needs.

**FAÇADE** – The face of a building, especially the principal front that faces a street or an open space including any face that is visible from the street.

**FAMILY** – One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants. A number of persons living together as a single housekeeping unit, although not related by blood, marriage or adoption, shall be deemed to constitute a family unit.

**FENCE** – Anything intended to separate property lines, or anything intended for privacy whether made of metal, wood, appropriate living materials, or other accepted materials as determined by the Planning Board.

**FLOOR AREA** – The sum of the horizontal area of the floors of a building and its accessory buildings on the same lot, excluding unfinished basement or cellar floor areas not devoted to habitable use, but

including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

**FLOOR AREA, GROSS** – The sum of the gross horizontal areas of several floors of a building or buildings, measured from the inside faces of exterior walls or from the centerline of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, "gross floor area" shall not include areas used principally for nonpublic purposes, such as storage, restroom, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

**FLOOR AREA, HABITABLE** – The floor area of rooms in a dwelling unit used for bedrooms, living rooms, dining rooms, and kitchens.

**FREESTANDING COMMUNICATIONS TOWER** – Freestanding lattice tower onto which a telecommunications antenna is affixed.

**FRONTAGE** – The extent of a building or a lot along one or more public streets as defined herein.

**GARAGE** – A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

**GAS OR FUEL STATION** – All lots from which motor fuel is sold and which may include a convenience store and/or motor vehicle services as an accessory use. If such accessory uses are combined with the sale of fuel, the use shall be treated as if it were solely the sale of fuel.

**GRADE LEVEL, FINISHED** – The finished ground level adjoining the building at all exterior walls.

**GUYED TOWER** – A communications tower consisting of a single pole supported by wires and ground anchors onto which telecommunications antennae and/or similar satellite antennae are affixed.

**HEIGHT OF STRUCTURE OR BUILDING** – The vertical distance measured from the average elevation of the proposed finished grade at the front building line to the highest point of the roof for flat roofs, to the decline of mansard roofs and to the mean height between the eaves and the ridge for gable, hip, and gambrel roofs.

**HOME OCCUPATION** – A use that:

1. Is clearly incidental and secondary to the use of such dwelling for residential purposes;
2. Is a single profession or hobby carried on within a dwelling by a member of the household residing in the dwelling unit; and
3. Can be conducted without substantial change in the appearance, character, traffic generation, physical environment, or social environment of the residence or its district.

**HOTEL OR MOTEL** – A building designed and intended for occupancy as the temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in any individual room or suite.

**IMPERVIOUS SURFACE** – Material which does not permit the natural absorption and permeation of rain or other surface water.

**INSTITUTION** – A facility that provides a public service and is operated by a federal, state, or local government, public or private utility, school, church or similarly recognized and legally established sect, public agency, tax exempt organization, or quasi-public organization.

**LANDSCAPING** – The use of natural and organic plant materials including, but not limited to, ground covers, shrubs, and trees. Landscaping also involves the placement, preservation, and maintenance of said plant materials in conjunction with associated improvements such as fences, walls, lighting, earth mounding, and structures (principal or accessory).

**LIGHT INDUSTRY** – Light Industries represent research and development oriented industries, high technology enterprises, light manufacturing facilities including assembly of manufactured goods, and other moderately-intensive industrial activities capable of operation in such a manner as to adequately control the external effects of the manufacturing process, such as odors, vibrations, emissions, noise or other nuisance characteristics beyond the property boundaries, through prevention or mitigation devices and conduct of operations wholly within the confines of buildings.

**LOADING AREA** – An off-street space exclusive of passageways, driveways, ramps, columns and other areas that is used for the temporary parking of a commercial vehicle while loading or unloading deliveries, merchandise or materials.

**LOT** – A designated parcel, tract, or area of land created by conveyance, subdivision or eminent domain and which has a unique Tax Map number.

**LOT AREA** – The total computed area contained within the property lines, excluding any part lying within the boundaries of a public street or proposed public street. Also referred to as “lot size.”

**LOT COVERAGE** – That percentage of the lot covered by all of the buildings, structures, and impervious materials.

**LOT LINES** – The property lines bounding the lot as follows:

1. **FRONT** – In the case of a lot abutting upon only one street, the line separating the lot from the street right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.

2. REAR – The lot line, which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.
3. SIDE – The property line or lines extending from the front lot line to the rear lot line.

LOT WIDTH – The width of the lot between side lot lines at the front building line as prescribed by the front setback regulations.

MANUFACTURED HOMES – A single-family dwelling originally equipped with or having a vehicular chassis and provided with all the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration. Manufactured homes shall be limited to manufactured home parks.

MANUFACTURED HOME PARK – A contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, or corporation.

MEDICAL OFFICE – Includes medical, dental, and clinical outpatient offices for the diagnosis and treatment of human ailments.

MIXED USE – A district in which both residential and nonresidential uses occur. The mix of uses can take place both vertically and horizontally. Vertical mixed use combines different uses in the same building, while horizontal mixed use combines single-use buildings on distinct parcels in a range of different land uses within one block.

MONOPOLE TOWER – A communications tower consisting of a single pole constructed without guyed wires and ground anchors.

NEIGHBORHOOD – A residential development or mixed-use development where the primary use is residential housing.

NEIGHBORHOOD CHARACTER – The atmosphere or physical environment which is created by the combination of land use and buildings within an area. "Neighborhood character" is established and influenced by land use types and intensity, traffic generation and also by the location, size, and design of structures as well as the interrelationship of all these features.

NON-CONFORMING BUILDING OR STRUCTURE – A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this Chapter.

NON-CONFORMING LOT – Any lot lawfully existing at the time of adoption of this Chapter or any amendment thereto which does not conform to the minimum width, depth, and area dimensions specified for the district wherein such lot is situated.

**NON-CONFORMING USE** – An established use of a building or structure or of land existing at the effective date of this Chapter which does not conform to the use requirements of the district in which it is located.

**NONRESIDENTIAL USE** – All uses of land and buildings except one-family dwellings, two-family dwellings and multi-family dwellings.

**OFFICE** – Firms or organizations providing professional, executive, management, or administrative services, such as those listed in the “Personal and Professional Services” definition.

**OPEN SPACE** – An area or areas of a lot, including required setbacks, which are:

1. Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor recreation or relaxation.
2. Landscaped, maintained, or otherwise treated to create a setting appropriate to recreation or relaxation.
3. Accessible and usable by the general public, business patrons or residents of all dwellings or stores it is intended or required to serve.

**OUTDOOR SALES AND DISPLAYS** – Includes uses which sell, rent, or display merchandise or equipment predominantly outside of an enclosed building. Such uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard.

**OUTDOOR STORAGE** – The location of any goods, wares, merchandise, commodities, or any other item outside of a completely enclosed building for a continuous period longer than 24 hours.

**OUTPARCEL** – A parcel of land, generally located on the perimeter of a larger parcel of commercial land that is subordinate to the larger parcel.

**OWNER** – An individual, firm, association, organization, partnership, trust, corporation, or company holding title to the property.

**PARKING LOT** – Any privately owned lot or building which is available to the general public for the temporary parking or storage of motor vehicles.

**PARKING SPACE** – A delineated part of a site upon which a vehicle is intended to be parked. Except for single-family dwellings, a parking space shall be located such that a vehicle may proceed to and from it without requiring the movement of any other vehicle.

**PATIO** – A ground-level area, usually made of concrete, cement, or paving stones. Such patio shall not be considered as part of a building in the determination of side or rear setback setbacks, provided that such

patio has no roof and is without walls, parapets or other forms of enclosure. Such patio may have a guard railing. Patios may also have living borders including trees and bushes.

**PEDESTRIAN-ORIENTED** – Refers to a pedestrian-friendly development approach providing clear, comfortable pedestrian access to commercial and residential areas and transit stops through the combination of land design practices including compact development, mixed use development, traffic calming, pedestrian- and public transit- orientation, designated pedestrian circulation systems and amenities, and a mix of housing types.

**PERMITTED USE** – A specific main use of a building, structure, lot or land or part thereof which this Chapter provides for in a district or as a matter of right. Any use which is not listed as a permitted as-of-right, permitted as-of-right subject to certain conditions, or permitted with a special use permit shall be considered a prohibited use.

**PERSONAL WIRELESS SERVICES** – Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by Section 704 of the Federal Telecommunications Act.

**PORCH** – An open, roofed platform extending along the exterior wall of a building. In determining the percentage of building coverage or building setbacks for the purpose of this Chapter, all porches shall be considered a part of the building.

**PRINT SHOP** – A facility for the custom reproduction of written or graphic materials on custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, digital printing, facsimile sending and receiving, and including offset printing.

**PROHIBITED USE** – A use of a building, structure, lot or land or part thereof which is not listed as a permitted as-by-right, permitted as-of-right subject to certain conditions, or permitted with a special use permit.

**RECREATIONAL VEHICLE** – Any vehicle used for recreational purposes, including, but not limited to, trailers used to transport such vehicles, all-terrain vehicles, boats, boat trailers, camper trailers, jet skis, motorcycles, motorhomes and snowmobiles.

**RELIGIOUS INSTITUTION** – Includes church, temple, synagogue, mosque, parish house, convent, seminary, and retreat house. Also referred to as “place of worship.”

**RESIDENTIAL USE** – Includes one-family dwellings, two-family dwellings, and multi-family dwellings.

**RETAIL STORES** – An establishment for the sale of goods, articles, or consumer services individually or in small quantities directly to the consumer. Retail store or service shall not be interpreted to include the

following: drive-up service, gasoline station, motor vehicle repair service, new or used car sales and service, and trailer or mobile home sales and service.

**RIGHT-OF-WAY** – A strip of land, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer or other similar use.

**SCREENING** – A method of reducing the impact of noise, glare and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls or any appropriate combination thereof.

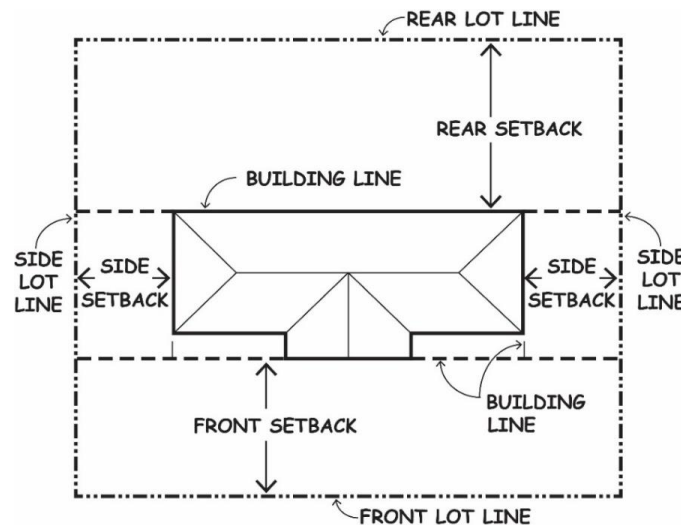
**SELF-SUPPORTED TOWER** – A communications tower, other than a monopole tower, that is constructed without guy wires and ground anchors.

**SEMITRACTOR** – A short truck with a body containing only a cab for the driver, used to haul commercial, detachable trailers.

**SEMI-TRACTOR-TRAILER** – A combination trucking unit consisting of a tractor and a trailer or semitrailer.

**SEMITRAILER** – A detachable trailer for hauling commercial freight, having its forward end supported by the rear of its truck tractor when attached.

**SETBACK** – The least required horizontal distance between property line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.



**SETBACK, STREET** – The setback to the street or front lot line. On corner lots, both setbacks bordering the street shall be considered as street setbacks. Such street setback shall be measured from the public right-of-way.



**SHORT TERM RENTAL (STR)** – A residential property that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.

**SITE** – A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Village limit that is proposed for development in accord with the provisions of this Zoning Code, and is in a single ownership or has multiple owners, all of whom join in an application for development.

**SITE PLAN** – A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Code Enforcement Officer or the Planning Board.

**SITE PLAN REVIEW** – Authority delegated to the Planning Board by the Village Board of Trustees, which enables the Planning Board to approve, approve with conditions, or disapprove the site development plans for all buildings or uses where site plan review is required.

**SPECIAL USE** – A use which, because of its unique characteristics, requires special consideration in each case by the Planning Board before a zoning permit can be issued. These uses shall require a special use permit. The special use permit process is detailed in Article 9.

**STREET** – A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, way, drive, boulevard, highway, road, paper street, and any other thoroughfare except an alley.

**STRUCTURE** – A combination of materials constructed, the use of which requires location on the ground or attachment to something having location on the ground and is not a building as hereinabove defined. This term includes an improved impervious parking surface.

**SUBDIVISION** – The legal division of any tract of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include re-subdivision.

**TELECOMMUNICATIONS TOWER** – A structure on which one or more antenna will be located that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC-licensed carrier. This includes, but is not limited to, freestanding towers, guyed towers, monopole towers and similar structures, but excludes those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

**TELECOMMUNICATIONS FACILITY** – Any cables, wires, lines, wave guides, antennae and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate, or has installed upon or near, a tower or antenna support structure. This includes, but is

not limited to, any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular/PC operation.

**TOWER** – Any structure that supports telecommunications facilities, whether a self-supporting lattice or monopole structure constructed from grade as a freestanding structure, or a guyed tower structure, or any other structure erected in connection with a building or other permanent structure, or equipment capable of containing or intended for the use of one or more antenna for transmitting and/or receiving radio, television, digital telephone, cellular, microwave or other similar electronic communications.

**TRANSPARENCY** – The percentage of the facade wall area which includes openings for transparent glass windows and doors.

**USE** – The specific purpose for which land, building, or structure is designed, intended, arranged, used, or maintained.

**USE, CHANGE OF** – Any change in the type or nature of occupancy of a building or land, except the following:

1. A change in the volume of use without any physical extension of sales and/or service area.
2. An expansion or substitution of accessory or incidental uses in connection with the established principal use, except that in no case shall such an accessory or incidental use dominant in area or purpose the principal lawful use.
3. A change in ownership.
4. A change to a generically similar use.

**UTILITIES** – Facilities or structures that provide essential services including but not limited to water, sanitary sewer, gas, electric, telephone, cable television and any easements through or over which said facilities may be constructed or installed in or in connection with a development.

**WALLS** – Anything that is made of metal, wood, cement, stone, or other permanent materials that are intended to separate property lines or are built for privacy.

**VACANT LAND** – As defined by the NYS Department of Taxation and Finance in the Assessor's Manual for Property Type Classification and Ownership Codes, vacant land shall mean a property that is not in use, is in temporary use, or lacks a permanent improvement. Examples of vacant land as defined in the Assessor's Manual include:

1. Residential vacant land. Vacant lots or acreage located in residential areas.

2. Residential Land including a small improvement (not used for living accommodations). Includes a private garage on a parcel of land separate from the residence. Do not include a small garage where space is being rented out.
3. Other vacant lands. Waste lands, dunes, swamps, rocky areas, and woods and brush of noncommercial tree species not associated with forest lands.
4. Vacant land located in commercial areas. Commercial vacant land with minor improvements.
5. Vacant land located in industrial areas. Industrial vacant land with minor improvements.
6. Urban renewal or slum clearance. Vacant lots or acreage undergoing urban renewal or slum clearance; improvements must be abandoned.
7. Public utility vacant land. Public utility company vacant land.

**VARIANCE, AREA** – In accordance with NYS Village Law §7-712 an “area variance” shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE** – In accordance with NYS Village Law §7-712 a “use variance” shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**VEHICLE SERVICE STATION** – Includes motor vehicle repair shops and auto detailing; however, all such activities must be conducted within a building. Such a use does not include the sale of fuel.

**VETERINARY SERVICES** – An establishment wherein the following activities take place: the diagnosis, treatment, operation, or prescription for any animal disease, pain, injury, deformity, dental or physical condition, or subcutaneous insertion of a microchip intended to be used to identify an animal.

**WAREHOUSE** – A building, typically enclosed, designed, or used for the storage of commodities.

**WETLANDS** – Areas designated as freshwater wetlands by the New York State Department of Environmental Conservation or the Army Corps of Engineers, as prescribed by law.

**YARD, FRONT** – An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side line of the lot.

**YARD, REAR** – An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side line of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center of the alley if there be an alley, and the rear line the building.

**YARD, SIDE** – An open unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required the rear boundary of the side yard shall be the rear line of the lot.

# Article 2. District Regulations

## §134-6. Establishment of Districts

**§134-6.1.** For the purpose of promoting the public health, safety, morals and general welfare of the community, the Village of Falconer is hereby divided into the following districts:

- A. Residential
- B. Mixed Residential
- C. Commercial
- D. Village Center
- E. Industrial

## §134-7. Conformance Required

**§134-7.1.** No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved, or altered unless it is in conformity with the regulations specified in Chapter 134.

**§134-7.2.** No building shall hereafter be erected or altered to exceed any required use, dimensional, or bulk requirements without obtaining a variance as detailed in Article 10.

**§134-7.3.** It shall be the property owner's responsibility to verify property lines.

## §134-8. Purpose Statements

### **§134-8.1. Residential (R)**

The purpose of the Residential district is to support the vision and principles contained within the Village of Falconer Comprehensive Plan through the preservation and enhancement of neighborhood function and character. It is intended to permit one and two-family units that do not compromise the existing residential character of established neighborhoods. Future development should ensure the continuation of traditional village development patterns, which generally consists of connecting streets with sidewalks, pedestrian-level street lighting, and street trees.

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**§134-8.2. Mixed-Residential (MR)**

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The purpose of the Mixed-Residential district is to provide housing options as set forth in the Village of Falconer Comprehensive Plan. The district may contain a mix of single-family, two-family, three-family, and four-family units. It is intended to allow for a variety of housing types and densities suitable as to establish a transition between single-family neighborhoods and nearby commercial, mixed-use, and/or industrial areas.

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**§134-8.3. Commercial (C)**

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The purpose of the Commercial district is to accommodate a mix of commercial and retail uses in support of the planning principles as outlined in the Village of Falconer Comprehensive Plan. The intent of this district is to allow for development along Falconer's major roadways capitalizing on both local and through traffic to provide goods and services that cater to residents and visitors. This district should develop in ways that accommodate all modes of travel, particularly pedestrians and bicyclists.

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**§134-8.4. Village Center (VC)**

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The purpose of the Village Center district is to maintain and enhance the economic vitality and traditional village Main Street character as established in the Village of Falconer Comprehensive Plan. This shall be accomplished through development that includes a combination of vertical and horizontal mixing of retail, service, office, and residential uses.

It is the intent of this district to have design that reflects traditional Main Street character through buildings that engage the street, first floor retail uses, upper floor residential and office uses, and development that encourages active streetfronts and pedestrian-friendliness. Buildings along Main Street should have architectural details and features that are reflective and/or compatible with early twentieth century Main Street buildings.

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**§134-8.5. Industrial (I)**

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The purpose of the Industrial district is to provide opportunity for industrial development in a manner that supports the planning principles of the Falconer Comprehensive Plan. This district shall allow a wide range of manufacturing and light industrial uses. All development in this district shall employ techniques to mitigate potential negative impacts that are noxious or injurious by reason of the generation or emission of traffic, parking, dust, smoke, radioactive material, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions.

## §134-9. Permitted and Specially Permitted Uses

- §134-9.1.** Uses are allowed in the zoning districts in accordance in the table below.
- §134-9.2.** Uses identified with a “P” in the table are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning ordinance.
- §134-9.3.** Uses identified with a “SP” in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 9.
- §134-9.4.** Uses that require Supplemental Regulations are identified with an “X” and are subject to site plan review by the Planning Board.
- §134-9.5.** Uses not listed and those identified with a “-” are expressly prohibited.
- §134-9.6.** Uses that require Supplemental Regulations are identified. Supplemental Regulations can be found in Article 3.

	<u>ZONING DISTRICT</u>						Supplemental Regulations
	RESIDENTIAL	R	MR	C	VC	I	
Single-Family Dwelling		P	P	P	-	-	
Two-Family Dwelling		SP	P	P	-	-	X
Two-Family Dwelling, By Conversion		SP	P	P	-	-	
Multifamily Dwelling		-	SP <sup>1</sup>	SP	SP	SP	X
Manufactured Home Park		-	-	-	-	SP	
Home Occupation		SP	SP	SP	-	-	X
Accessory Dwelling Unit		SP	SP	SP	-	SP	X
Short-Term Rentals (STR)		SP	SP	SP	SP	SP	X
Bed and Breakfast		-	-	SP	SP	-	X
<b>COMMERCIAL</b>							
Adult Entertainment Business		-	-	-	-	SP	X
Animal Rescue Facility		-	-	-	-	SP	
Banks or Financial Institution		-	-	P	P	-	
Bowling Alley or Assembly Hall		-	-	P	-	P	
Car Wash		-	-	SP	-	P	X
Convenience Store		-	-	P	-	-	
Drinking Establishment or Tavern		-	-	P	P	-	
Funeral Home		-	-	P	P	-	
Gas or Fuel Station		-	-	SP	-	P	X
Grocery Store		-	-	P	P	-	
Hotel or Motel		-	-	SP	-	-	

**NOTES:** <sup>1</sup>Multifamily dwellings in the MR District shall only be three-family or four-family dwellings

COMMERCIAL (Continued)	ZONING DISTRICT					Supplemental Regulations
	R	MR	C	VC	I	
Motor Vehicle Sales Facility	-	-	SP	-	SP	X
Office, Professional	-	-	P	P	-	
Print Shop	-	-	P	-	P	
Restaurant	-	-	P	P	-	
Retail Store	-	-	P	P	-	
Theater	-	-	P	P	-	
Vehicle Service Station	-	-	SP	-	P	X
Veterinary Services	-	-	P	-	P	
<b>INDUSTRIAL</b>						
Contractor's Service	-	-	SP	-	P	
Warehousing and Storage	-	-	SP	-	P	
Assembly and Light Manufacturing of Goods	-	-	SP	-	P	
Research, Development or Testing Lab	-	-	-	-	P	
Processing of Raw Materials	-	-	-	-	P	
Truck Terminal Facility	-	-	-	-	P	
<b>ACCESSORY</b>						
Accessory Use or Structure	P	P	P	P	P	X
Ancillary Parking Area	-	-	SP	-	SP	X
Drive-Through Facility	-	-	SP	-	-	X
Outdoor Sales and Display	SP	SP	SP	SP	SP	X
Outdoor Storage	SP	SP	SP	SP	SP	X
<b>OTHER</b>						
Cemetery	P	P	-	-	-	
Community Center	-	P	P	P	-	
Office, Medical	-	-	P	P	-	
Park or Playground	P	P	P	P	-	
Public Library	SP	SP	P	P	-	
Public Utility	SP	SP	SP	SP	SP	X
Religious Institution	P	P	P	P	P	
School, Public or Private	P	P	P	-	P	



## §134-10. Dimensional Requirements

The following dimensional requirements shall apply to all districts as noted. The label 'sf/u' indicates square feet per dwelling unit. The label 'sf' indicates square feet. The label 'ft' indicates feet.

REQUIREMENTS	ZONING DISTRICT				
	R	MR	C	VC	I
<b>MINIMUM LOT SIZE</b>					
Single-Family and Two-Family Dwellings	4,000 sf	4,000 sf	4,000 sf	-	-
Multifamily Dwellings	-	10,000 sf	10,000 sf	6,000 sf	-
Nonresidential Use	10,000 sf	10,000 sf	10,000 sf	10,000 sf	10,000 sf
<b>MINIMUM LOT WIDTH</b>					
Single-Family and Two-Family Dwellings	50 ft	50 ft	50 ft	-	-
Multifamily Dwellings	-	80 ft	80 ft	80 ft	80 ft
Nonresidential Use	60 ft	80 ft	80 ft	80 ft	100 ft
<b>MINIMUM FRONT YARD</b>					
Single-Family and Two-Family Dwellings	20 ft <sup>1</sup>	20 ft <sup>1</sup>	0 ft	-	-
Multifamily Dwellings	20 ft <sup>1</sup>	20 ft <sup>1</sup>	0 ft	0 ft	20 ft
Nonresidential Use	-	-	0 ft	0 ft	20 ft
<b>MAXIMUM FRONT YARD</b>					
Single-Family and Two-Family Dwellings	-	30 ft	30 ft	-	-
Multifamily Dwellings	-	30 ft	30 ft	30 ft	-
Nonresidential Use	-	-	30 ft	15 ft	-
<b>MINIMUM SIDE YARD</b>					
Single-Family and Two-Family Dwellings	6 ft	6 ft	6 ft	-	-
Multifamily Dwellings	6 ft	6 ft	6 ft	0 ft	20 ft
Nonresidential Use	-	-	6 ft <sup>2</sup>	0 ft <sup>2</sup>	20 ft <sup>3</sup>
Accessory Use or Structure	3 ft	3 ft	3 ft	0 ft	20 ft <sup>3</sup>
<b>MINIMUM REAR YARD</b>					
Single-Family and Two-Family Dwellings	15 ft	15 ft	6 ft	-	-
Multifamily Dwellings	15 ft	15 ft	6 ft	6 ft	20 ft
Nonresidential Use	15 ft	15 ft	6 ft	6 ft	20 ft <sup>3</sup>
Accessory Use or Structure	3 ft	3 ft	6 ft	6 ft	20 ft <sup>3</sup>

**NOTES:** <sup>1</sup>Structures on corner lots shall have two 20 ft setbacks facing both streets

<sup>2</sup>When a nonresidential use in the C or VC districts abuts a residential use, minimum side yard shall be 15 ft.

<sup>3</sup>When a structure in the I district abuts a residential or mixed-use district, minimum side and rear yards shall be 40 ft.

## §134-11. Bulk Requirements

The following bulk requirements shall apply to all districts as noted. The label 'ft' indicates feet.

REQUIREMENTS	ZONING DISTRICT				
	R	MR	C	VC	I
<b>MAXIMUM BUILDING HEIGHT</b>					
Single-Family and Two-Family Dwellings	30 ft	30 ft	30 ft	-	-
Multifamily Dwellings	-	40 ft	50 ft	50 ft	-
Accessory Dwelling Unit	30 ft	30 ft	30 ft	-	30 ft
Accessory Uses or Structures	20 ft	20 ft	20 ft	20 ft	40 ft
Nonresidential Use	30 ft	30 ft	50 ft	50 ft	50 ft
<b>MINIMUM BUILDING HEIGHT</b>					
Single-Family and Two-Family Dwellings	-	20 ft	20 ft	-	-
Multifamily Dwellings	-	30 ft	25 ft	30 ft	-
Accessory Dwelling Unit	-	-	-	-	-
Nonresidential Use	-	30 ft	25 ft	40 ft	-
<b>MAXIMUM LOT COVERAGE</b>					
Percent of Total Surface Area	40%	40%	70%	70%	60%

# Article 3. Supplemental Use Regulations

## §134-12. Purpose

Recognizing that certain uses may be customary, desirable or necessary in various districts, but by their nature often present problems or difficulties, these uses are subject to additional regulation and review in an effort to mitigate these problems or difficulties, minimize the impact of these uses upon the district, and preserve the character of neighborhoods. For some of these uses, the regulations in this Article will be additional to the provision of a special use permit. Special use permit requirements are in Article 9 of this Chapter. The following regulations are intended to promote the public health, general safety, and neighborhood and community character of the Village of Falconer, New York.

## §134-13. Site Plan Review and Approval

All uses listed in this Article are subject to site plan review. The Planning Board may waive any of the requirements imposed by this Article when it finds such action is warranted by reason of the unique physical conditions of the particular property or due to the unique character or circumstances of surrounding properties. Site Plan Review can be found in Article 7.

## §134-14. Uses Requiring Supplemental Regulations

The following requirements are applicable to all uses, permitted and specially permitted, noted in this Article. Uses allowable by special use permit must obtain Planning Board approval via the special use permit process (Article 9) prior to operation.

### §134-14.1. Accessory Dwelling Units

- A. Accessory dwelling units shall be subject to regulations under §134-14.2.
- B. For accessory dwelling units attached to the exterior of the primary dwelling and for cottages, a special use permit shall be used to establish a heightened level of control, especially on issues of design compatibility and privacy.
- C. An accessory dwelling unit shall only be permitted in the following ways:
  - 1. Converting interior living area, attic, or basement within the primary dwelling, or in an attached or detached garage;
  - 2. Adding floor area to a primary dwelling; or
  - 3. Constructing a cottage as an accessory dwelling unit.

- D. Either the accessory dwelling unit or the primary dwelling unit shall constitute the permanent residence of the person or persons who own the lot on which the primary dwelling is situated.
- E. No more than one accessory dwelling unit is permitted on any lot or parcel of land.
- F. Combined building coverage for the primary dwelling and accessory dwelling unit shall not exceed the allowable lot coverage.
- G. An accessory dwelling unit shall meet all site requirements including setbacks, height limits, and parking requirements. Side and rear setback requirements for accessory dwelling units shall be the side and rear setback requirements for accessory uses and structures.
- H. The accessory dwelling unit shall be a complete housekeeping unit that is separate from the primary dwelling. An accessory dwelling unit must include no more than two bedrooms.
- I. The parking areas on-site shall be adequate. In addition to the off-street parking required for the primary dwelling, there shall also be provided on the same lot one additional parking space for the accessory dwelling unit, if needed. Where on-street parking is established for the neighborhood, on-street parking may be counted to meet this requirement. No parking shall be located within or on a front or side yard setback.
- J. The accessory dwelling unit must meet the minimum requirements of the Uniform Fire Prevention and Building Code.

#### **§134-14.2. Accessory Uses and Structures**

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- A. Accessory uses and structures are permitted in any zoning district in connection with any principal use already lawfully allowed and existing within such district.
- B. Accessory structures or uses shall be clearly incidental to the primary structure or use in size, location, and function.
- C. No more than two accessory buildings shall be permitted on any one lot. Combined area for accessory buildings shall not exceed 500 square feet.
- D. Accessory buildings shall be constructed with similar materials to the principal structure on the lot.
- E. No accessory use or structure shall be established or constructed until the primary use or structure is constructed and unless a building permit evidencing the compliance of such use or structure shall have first been issued in accordance with this section. Accessory uses and structures deemed to be similar in nature and appropriate by the Code Enforcement Officer may also be allowed in the Village of Falconer.

- F. In any district, no accessory structure shall be used as a residence except as permitted in §134-14.1 of this Chapter.
- G. Permitted residential accessory structures or uses.
  - 1. Detached deck, patio, or terrace.
  - 2. Detached residential garage not including carports.
  - 3. Attached residential garages, decks, and terraces located behind the front building line of the primary structure. This shall not include carports.
  - 4. Child's playground or playhouse.
  - 5. Plant nursery, home garden, or greenhouse.
  - 6. Enclosed storage structure.
  - 7. Fence or wall, subject to the provisions of §134-22.
  - 8. Handicapped access ramp, installed permanently, provided it does not obstruct access to required parking.
  - 9. Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements.
- H. Permitted nonresidential accessory structure and uses.
  - 1. Decks, patios, and terraces.
  - 2. Detached garage, when located behind the front building line of the primary structure.
  - 3. Enclosed storage structure.
  - 4. Fence or wall, subject to the provisions of §134-22.
  - 5. Handicapped access ramp, installed permanently, provided it does not obstruct access to required parking.
  - 6. Electrical vehicle charging stations, subject to the provisions of off-street parking areas in this chapter.
  - 7. Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements.

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**§134-14.3. Adult Entertainment Businesses**

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- A. All adult use and entertainment establishments within the Village shall be in the Industrial district.
- B. No adult entertainment business – regardless of whether it is a principal or accessory use – may be located within 500 feet of any of the following uses which are legally in existence or have received legal authority to locate on a site, lot or parcel:
  - 1. Any property within the R or MR districts;
  - 2. Any area that has two or more single-family and/or multi-family residential uses regardless of the district in which the residential uses are located;
  - 3. Any church or church-related organization, public or private educational facility, daycare center, public park or trails system, senior living center or adult care facility, youth facility or community center; and
  - 4. Major roads and highways including New York State Route 86, Main Street, and Work Street.
- C. To determine compliance with the distance requirements of subsection B above, distances shall be measured along a straight line from the building faces or exteriors nearest to each other of the two establishments in question.
- D. If a court of competent jurisdiction determines that the distance requirement in subsection B is unconstitutional or unenforceable, then the distance shall be reduced to a length that is constitutional and enforceable.

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**§134-14.4. Ancillary Parking Areas**

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- A. The parking area must be in the same ownership as the lot being served and a covenant to run with the land must be established for as long as the principal use exists for which the ancillary parking area is provided. If the lot is to serve as a shared parking area, a shared parking agreement must be established with a covenant running with the land for as long as the principal use(s) exist.
- B. There shall be no sales, storage, repair work, dismantling or servicing of vehicles of any kind on the parking lot.
- C. The entire site area that is traveled by motor vehicles shall be hard surfaced (i.e. asphalt, concrete, or any other surface that does not release dust or debris).

- D. There shall be a minimum 10-foot buffer strip along all contiguous property lines, landscaped in accordance to development standards for the district if applicable.
- E. Lighting facilities shall be arranged and shielded so that no light will fall on the adjoining property and shall be confined within the boundaries of the parking area.

#### **§134-14.5. Bed-and-Breakfasts**

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In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria:

- A. A Bed and Breakfast shall only be permitted as a special use in a single-family, detached dwelling.
- B. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for Bed and Breakfast activities.
- C. The owner/operator of the Bed and Breakfast shall live full-time on the premises.
- D. No more than two non-residents of the premises shall be engaged as employees of the operation.
- E. A Bed and Breakfast shall have a maximum of three guest rooms with no more than two guest rooms sharing a single bath.
- F. The maximum length of stay for any guest is 7 consecutive days.
- G. Parking shall not be in the front yard. The Planning Board shall approve the location and screening of all required parking spaces.

#### **§134-14.6. Car Washes**

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Car washes shall be allowed provided they comply with the following regulations:

- A. All washing facilities shall be contained within an enclosed building.
- B. Vacuuming facilities may be outside of the building but shall not interfere with the free flow of traffic on or off the site.
- C. The entire site area that is traveled by motor vehicles shall be hard surfaced (i.e. asphalt, concrete, or any other surface that does not release dust or debris).
- D. In no case shall the perimeter landscaping be less than 10 feet in width along the street frontage(s).

- E. A solid masonry wall, fencing, landscaping or any combination thereof shall screen all lot lines abutting or adjacent to residential districts or uses. Said screening shall not be less than 4 feet, but no more than 6 feet in height and in accordance with Article 4 of this Chapter.
- F. Where fuel stations are either a principal use with or an accessory use to the car wash, a separate special use permit shall be required.
- G. In the event a car wash is abandoned, the owner shall immediately remove any outdoor vacuums, and all signs. The owner shall also provide adequate protection against unlawful entry into the building and onto the property and shall close all vehicular entrances to the property. A car wash shall be considered abandoned if it is inactive for a period of 12 consecutive months.

#### **§134-14.7. Communications Systems**

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##### **A. Purpose and Goals**

- 1. The purpose of this sub-section is to establish supplemental regulations, guidelines, and procedures for the siting of wireless communications towers and related structures.
- 2. The goals of this sub-section are to:
  - (i) Encourage users of towers and related structures to configure them in a way that minimizes the adverse aesthetic impact of the towers and related structures through careful design, siting, landscaping and screening, and innovative camouflaging techniques;
  - (ii) Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
  - (iii) Avoid potential damage to person and property from tower failure through engineering and careful siting of towers and related structures;
  - (iv) Minimize the total number of towers throughout the community;
  - (v) Ensure the removal of abandoned towers in order to minimize the negative impacts associated therewith; and
  - (vi) Ensure that the proposed tower or related structure will not interfere with existing local telecommunications or public safety telecommunications.

##### **B. General Criteria**

- 1. No special use permit relating to a communications system shall be authorized by the Planning Board unless it finds that such a system:



- (i) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
- (ii) Will be designed and constructed in a manner which minimizes visual impact to the extent practical; and
- (iii) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.

#### **C. Site Plan**

1. A site plan shall be drawn illustrating the proposed telecommunications facility, tower, or related structure. Any communications system shall include all site plan elements outlined in Article 7 of this Chapter. The following additional information shall be included in a site plan:
  - (i) The location, size, use and arrangement of any existing and proposed structures, including tower height in feet, total floor accessory facility area, total square feet of ground area coverage, and any other details to adequately describe the communications system.
  - (ii) The locations, size and arrangement of all exterior wiring, including conduit and chase material proposed.
  - (iii) The location, designation and total area of all usable open space or common property and the extent to which it is to be improved.

#### **D. Colocation**

1. The shared use of preexisting communications systems shall be preferred to the construction of new facilities. Applicants are encouraged to provide towers to enable use by other carriers.
2. Any application, renewal, or modification thereof shall include documentation that reasonable efforts have been made to collocate within an existing telecommunications facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site.
3. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facilities due to one or more of the following reasons:

- (i) The planned equipment would exceed the structural capacity of existing and approved communications systems or other structures, considering existing and planned use for those facilities.
- (ii) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
- (iii) Existing or approved communications systems or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
- (iv) Other documented technical reasons make it impracticable to place the equipment proposed by the applicant on existing towers and accessory facilities or structures.
- (v) The property owner or owner of the existing telecommunications facility or other structure refuses to allow such collocation or requests an unreasonably high fee for such collocation compared to current industry rates.
- (vi) Propagation studies that show the intended areas to be serviced cannot be accommodated from an existing location.

**E. Setbacks**

- 1. The Planning Board may require reasonable setbacks with respect to topography, views and vistas, adjacent properties, vegetation, and other site considerations.
- 2. Setbacks shall apply to all tower parts, including guy wire anchors, and to any towers and accessory facilities.

**F. Visibility and Aesthetics**

- 1. The project shall be designed to blend with the natural and/or man-made surroundings to the maximum extent practicable.
- 2. Telecommunication 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 Federal Aviation Administration (FAA).
- 3. Telecommunication towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- 4. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5. Monopoles shall be preferred to guyed towers and freestanding lattice towers except where such freestanding lattice tower offers capacity for future shared use. The Planning Board may consider the type of structure being proposed and the surrounding area.
6. The applicant must examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for additional antenna and accessory facilities.
7. Towers and accessory facilities shall be painted or camouflaged to blend readily with the landscape, neighborhood and adjacent architectural features.

**G. Vegetation and Screening**

1. Existing on-site vegetation shall be presented to the maximum extent possible, and no cutting of trees exceeding four inches in diameter shall take place prior to approval of the Planning Board.
2. Clear-cutting of all trees in a single contiguous area shall not be allowed.
3. Deciduous or evergreen tree planting may be required to screen portions of the tower and accessory facilities from nearby residential property as well as from public sites. Where the site abuts residential or public property, including streets, 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, with the plant height to include the height of the berm.
4. The Planning Board may require appropriate vegetative buffering around the fences of the telecommunications tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.
5. A maintenance plan and replacement plan for all vegetation and screening shall be provided.

**H. Access and Parking**

1. A road and parking area will be provided to assure adequate emergency and service access.
2. Maximum use of existing roads, public or private, shall be made.
3. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting.
4. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

5. Equipment or vehicles, including box trailers and construction trailers shall not be stored on the facility site.

#### **I. Fencing and Security**

1. Fencing at least six feet in height shall surround towers, anchor points around guyed towers and accessory facilities, unless accessory facilities are roof-mounted.
2. There shall be no permanent climbing pegs within fifteen feet of the ground on towers.

#### **§134-14.8. Drive-Through Facilities**

Drive-through facilities are permitted as either stand-alone facilities or as an accessory to restaurants, pharmacies, banks, and other permitted or specially permitted uses in the Commercial district. Drive-through facilities shall comply with the following regulations:

- A. Each drive-through facility and its associated use shall provide ingress and egress so as to minimize traffic congestion.
- B. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, shall meet the setback requirements for the property.
- C. Drive-through facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. These facilities shall not be located adjacent to residential uses or districts.
- D. Stacking space for these facilities shall not impede on- or off-site traffic movements. The stacking space shall be delineated from other internal areas using pavement markings that are identifiable during all seasons.
- E. Minimum numbers of stacking or queuing spaces required by drive-through activity type are provided below.

<b>1. Activity Type</b>	<b>Minimum Spaces</b>	<b>Measured From</b>
Automated Teller Machine	2 spaces	Teller or Window
Bank Teller Lane	4 spaces	Teller or Window
Car Wash Stall	3 spaces	Entrance
Fuel Pump Island	2 spaces	Pump Island
Pharmacy	4 spaces	Order Box
Restaurant	6 spaces	Order Box
Vehicular Service Bay	3 spaces	Per Bay
Other	Determined by Planning Board	

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**§134-14.9. Gas or Fuel Stations**

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Gas and Fuel Stations shall comply with the following regulations:

- A. No fuel pump, parking area, or outdoor service facility shall be located within 20 feet of any designated street line or within 40 ft of any property line.
- B. In addition to the information required for site plan review, the plan shall also indicate the location, number, capacity and type of fuel storage tanks, the number of pumps to be installed, and the depth to the tanks. The site plan shall also include a proposed landscaping plan including evergreen trees planted along the 40' buffers between adjacent properties.
- C. All fuel tanks shall be underground and comply with all New York State Department of Environmental Conservation regulations.
- D. No fuel station shall be located within 500 feet of another fuel station.
- E. No fuel service station or automobile repair shop shall have an entrance or exit for vehicles within 200 feet, as measured along the public street, in which there exists a school, park, public playground, church, chapel, convent, hospital or public library, and such access shall be not closer to any intersection than 125 feet.
- F. A solid masonry wall, fencing, landscaping or any combination thereof shall screen all lot lines abutting or adjacent to residential districts or uses. Said screening shall not be less than 4 feet, but no more than 6 feet in height and in accordance with Article 5 of this Chapter.
- G. Fuel stations may include retail sales of food, convenience items, and minor automotive supplies or liquids provided that the sales of such items are within an enclosed structure and are an accessory use. Sales areas outside of the primary structure may be displayed on the pump islands or the building island only.
- H. In order to reduce glare on adjacent residential properties, no lights or lighted signs shall be installed.
- I. Fuel stations shall be under the control of an attendant during all hours of operation.
- J. All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50 feet to any property line.
- K. No repair work shall be conducted outside. All damaged or dismantled vehicles, parts and similar articles shall be kept within a building when the fuel station is not open for public business.

- L. Lots on which fuel stations are located shall always be maintained and kept free from paper, cans and other rubbish. Fuel stations shall not include body repair or similarly noisy or noxious activities.
- M. All driveways providing ingress to or egress from a gas or fuel station shall not be more than 30 feet wide at the property line.
- N. No more than one curb opening shall be permitted for each 50 feet of frontage along any street.
- O. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the property line.
- P. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.

#### **§134-14.10. Home Occupations**

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- A. The home occupation shall only be conducted in the principal building.
- B. The home occupation shall be conducted only by residents of the dwelling plus 1 additional employee.
- C. No objectionable noise, obnoxious odors, vibrations, glare, smoke, fumes, dust or other particulate matter, heat, humidity or electrical or electronic interference detectable outside the structure shall emanate from the property.
- D. No articles shall be sold or offered for sale except for those that are produced on the premises.
- E. The operation of a home occupation shall in no way change or alter the residential appearance or character of the premise or neighborhood in which it is located. Any modifications to the interior or exterior of the residence shall comply with the NYS Uniform Code.
- F. There shall be no exterior display or storage of materials, goods, supplies, or equipment related to the operation of the home occupation. Any area used internally for the storage of goods must be included in the calculation of habitable space.
- G. No toxic, explosive, flammable, combustible, corrosive, or radioactive materials may be used or stored on the site.
- H. Prohibited home occupations include those that would generate adverse impacts to or are incompatible with the existing character of a residential neighborhood. These uses include but are not limited to the following: Ambulance services, animal care services, motorized vehicle sales or repair, funeral homes/parlors, animal hospitals, commercial stables and kennels, antique

shops, appearance enhancement services, real estate offices, restaurants and the retail sale of goods.

- I. All home occupations shall be subject to the off-street parking requirements of its respective district.
- J. All home occupations shall be subject to signage regulations specified in §106-5 of Falconer's municipal code.

#### **§134-14.11. Motor Vehicle Sales Facilities**

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All vehicle sales facilities and uses shall comply with the following:

- A. The sales area shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
- B. The number of vehicles that may be for sale on the premises must be specified on the special use permit. An increase in the number of vehicles to be sold shall require a new permit.
- C. Exterior illumination shall be provided to the satisfaction of the Planning Board.
- D. A solid masonry wall, fencing, landscaping or any combination thereof shall screen all lot lines abutting or adjacent to residential districts or uses. Said screening shall not be less than 4 feet, but no more than 6 feet in height and in accordance with Article 5 of this Chapter.
- E. No repairs, other than minor repairs shall be performed on the premises. All maintenance, service, and repairs of motor vehicles shall be performed within an enclosed structure. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
- F. The retail sales of fuel or operation of a vehicle service station on site shall require the issuance of a separate special use permit pursuant to §134.-14.9 and §134.-14.17 of this Article.
- G. No vehicles shall be displayed for sale within ten feet of any property line that abuts a residential district or use.
- H. All driveways providing ingress to or egress from a vehicle sales facility shall not be more than 30 feet wide at the property line.
- I. No more than one curb opening shall be permitted for each 50 feet of frontage along any street.
- J. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the property line.

- K. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same vehicle sales facility.

#### **§134-14.12. Multifamily Dwellings**

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Development applications for multifamily dwelling units shall be subject to the following special use requirements:

- A. All dwelling units and structures shall comply with the standards set forth in the NYS Uniform Code. Said standards shall take precedence to this zoning ordinance should there be a conflict.
- B. All multifamily building façades shall be designed with consistent materials and treatments. The consistency of materials and treatments shall also be maintained for a single building possessing multiple façades. May not apply to the conversion of and/or re-use of an existing building.
- C. No driveway or parking lot should be closer than 25 feet to the front of any building or 10 feet to the side or rear of any building.
- D. In the case of an enclosed garage provided as a portion to the main structure, distance requirements for driveways providing access to these accommodations shall not apply. May not apply to the conversion of and/or re-use of an existing building.
- E. Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, porches, and other architectural design elements shall be used to visually divide larger buildings. To prevent an out-of-scale, monolithic appearance, larger buildings shall be visually divided into smaller sections no longer than 50 feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and pedestrian-friendly streetscape. May not apply to the conversion of and/or re-use of an existing building.
- F. Multifamily buildings shall be laid out so that multiple entrances face the street. Each entrance shall be connected by sidewalk to the Village's public sidewalk system. Garage entrance/exit doors are prohibited on the front façade of buildings.
- G. Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be designed and positioned in a manner that does not disturb or encroach upon the streetscape (pedestrian walkways, roadways, etc.) or adjacent residential neighborhoods.
- H. Parking areas shall be in the side or rear yards, but no closer than 20 feet from any property line and shall comply with all other regulations of the district in which the use is located.



- I. Ground-floor dwellings shall not be permitted in the VC District when fronting Main Street and/or Work Street. Retail and/or commercial uses are preferred on the ground floor.

#### **§134-14.13. Outdoor Sales and Display**

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The following requirements shall apply to all commercial operations regardless of the district in which they are located.

- A. The display area shall not exceed 15% of the gross floor area of the primary structure.
- B. The display area shall not block automotive traffic, private sidewalks, fire lanes, or other travel lanes.
- C. Such displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than 5 feet from the wall.
- D. Such displays shall not be permitted to block windows, entrances or exits and shall not impair the ability of pedestrians to use the building or surrounding sidewalk.
- E. The items for display are labeled for sale and said area shall not be used for storage purposes.
- F. Personal garage, lawn, yard, or rummage sales shall be allowed without zoning permits. No more than two such sales shall be held on a single property in any twelve month period for a maximum duration of no more than three days, with a minimum of seven days between the ending of a sale and the beginning of a new sale. At the end of a sale, all items that are for sale shall be moved so as not to be visible from the public right-of-way.

#### **§134-14.14. Outdoor Storage**

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The following requirements shall apply to all nonresidential uses within the Village of Falconer.

- A. Outdoor storage shall not be allowed in the front yard;
- B. Outdoor storage shall not occupy more than 15% of the entire lot area;
- C. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses;
- D. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public accessways; and
- E. All screening shall always be maintained in such a manner as to present a neat and orderly appearance.

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**§134-14.15. Short-Term Rentals (STR)**

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In order to protect the residential character of the district in which it is located, a Short-Term Rental facility shall be limited by the following criteria:

- A. An STR shall only be permitted as a special use in a single-family dwelling.
- B. The residential character of the dwelling shall be preserved.
- C. No accessory buildings shall be used for STR activities.
- D. No more than 1 non-resident of the premises shall be engaged as employees of the operation.
- E. An STR shall have a maximum of four guest rooms with no more than four guest rooms sharing a single bath.
- F. The maximum number of guests per guest room is limited to 2 persons.
- G. The maximum length of stay for any guest is 7 consecutive days.
- H. Parking shall not be located or permitted in the front or side yards of the property. The Planning Board shall approve the location and screening of all required parking spaces.
- I. All garbage containers must be out of view from the street unless it is a garbage pick-up day.
- J. No renter may use a sound device (radio, speaker, or sound system) and shall maintain a low level of noise outside the STR between 8:00 PM and 8:00 AM during weeknights (Sunday, Monday, Tuesday, Wednesday, Thursday) and between 10:00 PM and 8:00 AM on weekend nights (Friday and Saturday).

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**§134-14.16. Two-Family Dwellings**

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- A. Two-Family dwellings by new construction shall be specially permitted in the R district and thus shall be subject to the provisions in Article 9.

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**§134-14.17. Vehicle Service Stations**

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Vehicular service stations, motor vehicle repair shops, and service stations shall comply with the following:

- A. No motor vehicle sales or storage shall be allowed unless a separate special use permit application for such use is approved by the Planning Board.
- B. Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall be in conformance with Article 4 in order to prevent the unwanted transmission of ` , concrete, or any other surface that does not release dust or debris).
- C. Perimeter landscaping along the street frontage(s) shall not be less than 10 feet in width.

- D. A solid masonry wall, fencing, landscaping or any combination thereof shall screen all lot lines abutting or adjacent to residential districts or uses. Said screening shall not be less than 4 feet, but no more than 6 feet in height and in accordance with Article 5 of this Chapter.
- E. No outdoor storage of materials, merchandise and equipment shall be permitted during non-business hours.
- F. Vehicle repair garages shall not be used for the storage, sale, rental or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles.
- G. All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than 48 hours.
- H. A spill prevention plan shall be provided.
- I. Any driveway providing ingress to or egress from a Vehicle Service Station shall not be more than 30 feet wide at the property line.
- J. No more than one curb opening shall be permitted for each 50 feet of frontage along any street.
- K. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the property line.
- L. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.

#### **§134-14.18. Public Utilities**

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Public utility installations shall comply with the following requirements:

- A. Any structure shall be set back at least 25 feet from all property lines or the minimum setback requirements of the applicable zoning district, whichever is greater.
- B. No parking or storage areas shall be in front of the structure or building.
- C. The uses shall be enclosed and screened by either vegetation or a fence or wall. The screening shall be subject to approval by the Planning Board.
- D. Such facility shall not be located on a residential street unless no other site is available and shall be so located as to draw a minimum of vehicular traffic to and through such streets. Additionally, the location, design, and operation of such facility shall not adversely affect the character of the surrounding residential area;
- E. Such facility shall be landscaped in a manner approved by the Planning Board;
- F. To the extent practicable, equipment shall be stored so as not to be visible from surrounding properties; and
- G. Any additional requirements determined to be necessary by the Planning Board through Site Plan Review in order to protect the public's health, safety, and welfare of the public.

# Article 4. Building and Site Design

## §134-15. Purpose

These design standards and guidelines are intended to support the vision, values, and principles of Falconer's Comprehensive Plan. These standards and guidelines are intended to preserve and improve the design and character of the Village of Falconer. Well-designed buildings and sites encourage lively, safe, pedestrian-friendly, and attractive streets and public spaces. Additionally, buildings and sites that are well-designed protect and enhance property values and promote village vibrancy.

## §134-16. Applicability

- §134-16.1.** These design standards and guidelines shall apply to all newly constructed structures in all districts except for the industrial district and single-family and two-family dwellings.
- §134-16.2.** If existing structures are expanded by 30% or more of the existing building area, as defined by the Building Code, or are being repaired, remodeled, rehabilitated, or otherwise improved to the point that the value **or** the repairs, remodeling, rehabilitation, or improvements constitute at least 51% of the current assessed value of the structure, the entire structure shall be brought into compliance with these design standards.

## §134-17. Standards vs. Guidelines

This code includes both standards that are required to be met as well as guidelines that are encouraged, but not required. As such, provisions designated as "shall" or "will" are required, while provisions designated as "should" are encouraged.

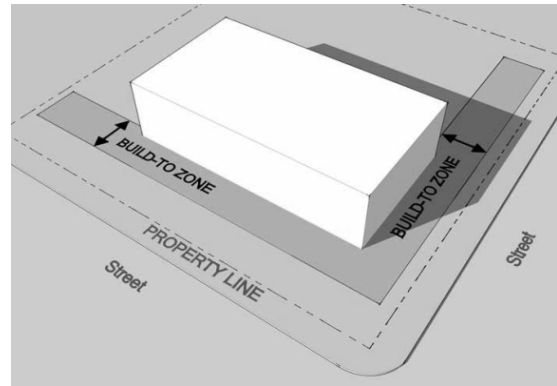
## §134-18. Site and Building Guidelines and Standards

### §134-18.1. Building Placement, Orientation, and Frontage

- A. To the maximum extent practicable, buildings shall be arranged to orient to the streets and to frame the corner at the intersection of the two streets.

## B. Frontage Width

1. A minimum of 50% of the building façade shall be located within the *Build-To-Zone*. This applies to both frontage façades for buildings on street corners.
2. Prohibited design elements between building and front property line:
  - (i) Motor vehicle parking; and
  - (ii) Motor vehicle access drives, drive lanes or aisles, except those necessary to provide direct access to a public street.



*The Build-To Zone is a flexible area where the facade of a building must be located, measured as both a minimum and maximum setback distance from the property line / public right-of-way. The amount of façade that must be placed inside this zone is the Frontage Width percentage.*

## C. Building Composition and Massing

1. The design of the structure shall be of a compatible architectural style and treatment with surrounding buildings and sites.
2. Buildings shall exhibit a clearly defined base, mid-section, and crown. This can be accomplished using a combination of architectural details, materials, and colors.

*A well-articulated base, mid-section, and crown can be achieved in all building types and sizes including multi-story buildings, as depicted in the illustration to the right, and single-story buildings, as depicted directly below.*



### Crown

Sloped roofs, prominent eave lines, cornice, and/or parapet treatments, material changes, etc.

### Mid-section

Window details, balconies, railings, material changes, and other treatments and details to help unify the building and define its character.

### Base

Pedestrian scaled details and/or pedestrian-oriented storefronts, awnings, arcades, etc.



### Crown

### Mid-section

### Base

3. The overall massing of buildings shall have areas of noticeable 3-D relief or be broken down into smaller shapes to reduce the scale and avoid the appearance of a “large box.” Building designs shall be varied and shall avoid long, flat façades.
  - (i) The vertical plane of a building façade shall be broken up with a high level of articulation (e.g. projecting entry or window features, recessed elements, transparent storefronts, identifiable retail spaces, and awning/entrance canopies) especially at ground level.
  - (ii) A repeating pattern of wall recesses and projections, such as bays, offsets, reveals or projecting ribs, which has a relief of at least 8 inches, is encouraged.
4. Any changes in exterior building material shall occur at interior corners.

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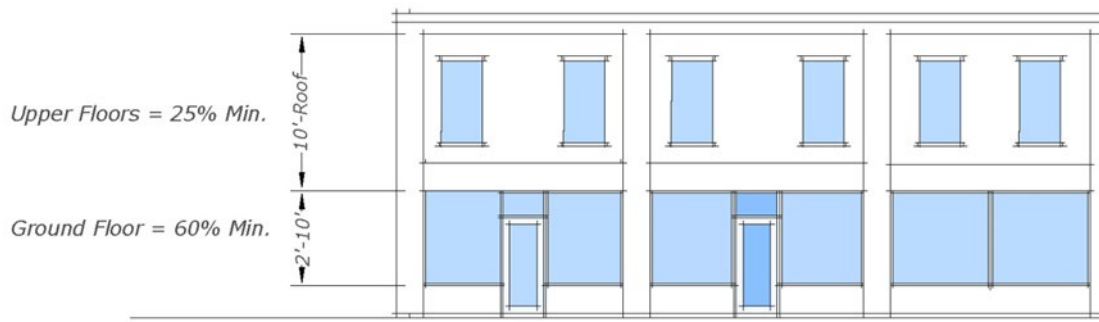
**§134-18.2. Facades**

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- A. No façade shall exceed 40 feet in horizontal length without a change in façade plane. Any changes to a façade plane shall be at least 1 ½ feet in depth and at least 8 feet in length.
- B. All façades shall be designed to be consistent regarding architectural style, materials, and details.
- C. All buildings shall have prominent street-level entrances that are visible and accessible from the public sidewalk.
- D. Building entries shall be given prominence on the street frontage and shall be sized appropriately for the scale of the building.
- E. Buildings located on corner lots should have a building entrance located on the corner that faces the intersection of 2 public streets, to the extent practicable.
- F. Windows should be greater in height than they are in width or should be of equal proportion.
- G. Mirrored, reflective, or darkly tinted glass or all-glass walls shall not be permitted.
- H. Balconies, bay windows, cornice features, and open porches are encouraged and may extend up to 5 feet into the front yard setback, provided they do not encroach a public right-of-way.

### §134-18.3. Transparency

- A. A minimum of 60% of the street-facing, ground floor façades for nonresidential uses shall be comprised of clear windows that allow views into the interior of the building.
- B. Ground floor façades for residential uses shall provide a minimum transparency of 25%.
- C. Upper floor façades shall provide a minimum transparency of 25%
- D. Ground floor transparency shall be measured between 2 feet and 10 feet above the adjacent sidewalk.



### §134-18.4. Roofs

- A. Reflective surfaces that produce glare are prohibited, except for solar panels or white roofs intended to radiate absorbed or non-reflected solar energy and reduce heat transfer to the building.

### §134-18.5. Mechanical Equipment and Dumpsters

- A. Air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, and other similar mechanical equipment and refuse storage containers and facilities shall be thoroughly screened from view from the public right-of-way and from adjacent properties. Screening shall be architecturally compatible with the style, materials, colors, and details of the building.

## Article 5. Landscaping, Buffers, Fences, and Walls

### §134-19. Purpose

**§134-19.1.** These requirements for landscaping, fences, and walls are intended to support the vision, values, and principles of Falconer's Comprehensive Plan. They are intended to preserve and improve the design and character of the Village of Falconer. Well-designed landscaping and thoughtful placement of fencing and walls can contribute to lively, safe, and attractive streets and public spaces.

**§134-19.2.** The landscaping and buffering requirements of this article are intended to:

- A. Promote a healthy environment by providing shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff management, erosion control, and reductions in noise, glare, and heat island effects;
- B. Provide visual buffering from streets or potentially incompatible land uses;
- C. Provide landscaping and buffering that generally enhance the quality and appearance of the Village; and
- D. Encourage the preservation of existing trees and vegetation that offer environmental, aesthetic, habitat, sustainability, and economic benefits to the Village and its citizens.

**§134-19.3.** Fence and wall requirements in this article are intended to:

- A. Promote a comfortable and safe environment by providing visual buffering from streets and sidewalks without compromising or hindering the comfort and safety of pedestrians; and
- B. Provide for visual buffering that generally enhances the quality and appearance of the Village.

### §134-20. Applicability

**§134-20.1.** These landscaping and buffering requirements shall apply to all newly constructed sites and buildings in all districts, except for single-family and two-family structures.

**§134-20.2.** Fences and wall requirements shall apply to all districts, regardless of land use.



## §134-21. Landscaping and Buffering

### §134-21.1. Landscape Plan Requirements

- A. A landscape plan must be submitted and approved for all projects requiring site plan review. No permit for work, including site plan approval, may be issued until a landscape plan has been approved. Unless waived by the Planning Board, the landscape plan(s) shall be prepared by a landscape architect registered to practice in New York State and shall show the following:
1. Topography of site before and after landscaping;
  2. Location and size of all existing plant materials;
  3. Existing vegetation to be retained and size of all existing trees with a diameter at breast height of five inches or more, including all trees to be preserved or removed;
  4. Devices by which existing plant material shall be protected from damage during land alteration or land development activities. All disturbed areas not otherwise treated shall be seeded and/or sodded;
  5. Dimensions of landscaped areas;
  6. Location, type, size, spacing, and number of proposed trees, shrubs, and ground covers;
  7. Property lines, match lines, easements, limit of contract, proposed buildings, paved areas, fences, walls, and utilities;
  8. The location, quantity, size, root ball condition (e.g., B/B or potted) and both scientific and common names of all proposed plant materials, the on-center spacing for hedges;
  9. Typical planting details for trees, shrubs, ground covers, fences, walls, etc.; and
  10. A legend, plant list, key, scale drawn to a minimum of one inch per 30 feet, north arrow, and planting detail.

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**§134-21.2. Street Tree and Lot Frontage Landscaping**

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- A. All properties requiring site landscaping shall include deciduous trees at the minimum rate of one for every 40 feet along any property line abutting the public right-of-way. The requirement may be satisfied by planting trees within the public right-of-way at a location to be designated by the Planning Board or, alternatively, such trees shall be planted on site within the front yard setback located between five feet and ten feet from the back of the public sidewalk and/or public right-of-way.
- B. Building setback areas shall include compact massings of ornamental plant material, such as ornamental trees, flowering shrubs, perennials, and ground covers.
- C. Planting shall be massed and scaled as appropriate for the entryway size and space.
- D. Plantings should decrease in size and increase in detail, color, and variety near entryways into developments.

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**§134-21.3. Building Foundation Landscaping**

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- A. No foundation landscaping is required on a side(s) where buildings are located on a lot line.
- B. Foundation landscaping must be provided in the form of a continuous 5-foot (minimum) landscape area around the full perimeter of the building, excluding pedestrian and vehicle access points.
- C. Foundation landscape areas must be 100% planted along the front, 50% planted along each side and 25% planted in the rear.
- D. Plantings must include a combination of trees, shrubs, perennials and ground covers that enhance the building's architecture, soften its mass and break up blank walls. Turf grass shall not be counted as part of the required foundation planted area.
- E. Plantings should decrease in size and increase in detail, color, and variety near entryways into buildings.

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**§134-21.4. Interior Parking Lot Landscaping**

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- A. The interior of all parking lots containing 10 or more spaces shall be landscaped according to the provisions in this subsection.
- B. An area equal to at least 5% of the surface area occupied by vehicle parking spaces, inclusive of driving aisles and driveways necessary for access to and circulation among

those spaces, shall be landscaped. Landscaping shall include a minimum of 1 tree island containing at least 80 square feet of land area, which shall include at least 1 medium shade tree or larger for every 20 parking spaces. Parking lot screening shall not be used to meet this 5% landscaping requirement.

- C. Trees shall be the primary landscaping material for parking lots. Trees can provide shade at maturity. Shrubbery, hedges, and other planting materials should be used to complement tree landscaping but shall not be the sole means of landscaping. Effective use of earth berms and existing topography should also be a component of the landscaping plan.
- D. Large and medium shade trees are recommended.
- E. Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended.
- F. To the extent practicable, interior parking lot landscaping should minimize conflicts between plantings and pedestrian circulation, emergency vehicle access, light poles, signs, and site utilities.
- G. Landscaped berms shall be at least 10 feet wide, a maximum of 3 feet high, and shall include a maximum slope of 3:1.

#### **§134-21.5. Alternative Parking Lot Landscaping**

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- A. Lots that use low-impact design (green infrastructure) techniques to slow water runoff, increase infiltration, and improve water quality are permitted and encouraged. These parking lots shall be properly designed, graded, and planted utilizing industry “best management practices.”

#### **§134-21.6. Planting Materials**

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- A. All plants shall be living plants, and the use of artificial plants is prohibited.
- B. Plants native to Upstate and Western New York should be prioritized and encouraged.
- C. A minimum of 80% of surface area shall be covered by living materials, rather than mulch, bark, gravel, or other non-living material. This shall apply to all areas where landscaping is required.
- D. Deciduous trees shall be a minimum of 1 ½ inch caliper at the time of planting and shall be 8 feet in height at time of planting.
- E. Evergreen trees shall be a minimum of 5 feet in height at time of planting.

- F. Upright shrubs shall be a minimum of 24 inches in height at time of planting. Spreading shrubs, deciduous and evergreen, shall be a minimum of 15 inches in diameter at time of planting.
- G. Planting beds may be mulched with shredded hardwood, granite chips, river rock or similar materials.
- H. All plant material shall be:
  - 1. Normally developed and typically representative of stated species and/or variety;
  - 2. Stock well-branched and healthy; and
  - 3. In accordance with the American Association of Nurserymen's American Standard for Nursery Stock.

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**§134-21.7. Plant Diversity**

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- A. Plant materials shall be from a diverse group to the extent practicable and the following requirements shall apply to all landscaping:
  - 1. If there are more than 8 required trees, no more than 40% of them shall be of one species.
  - 2. If there are more than 24 required trees, no more than 20% of them shall be of one species.
  - 3. If there are more than 25 required shrubs, no more than 75% of them shall be of one species.

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**§134-21.8. Lawn Area (turf)**

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- A. Grass areas shall be planted in species that are well-adapted to localized growing conditions in Chautauqua County. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- B. In areas where materials other than solid sod or grass seed are used, overseeding shall be sown for immediate effect and protection until coverage is otherwise achieved.

### §134-21.9. Preservation of Existing Landscaping

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- A. Existing vegetation may be used to satisfy the landscaping and screening requirements of this Chapter if the existing vegetation is protected and maintained during site development and construction phases of work; and if such trees or plants are not otherwise invasive and/or prohibited.
- B. Tree credits shall be awarded in the quantities shown in the table below based on the Diameter at Breast Height (DBH) approximately 4 ½ feet from the ground.

1. Tree Preservation Credit:

Caliper of Preserved Tree (In)	Reduction in Number of Required Trees
Over 12 in. DBH	3
Over 8 in. to 12 in. DBH	2
5 in. to 8 in. DBH	1

### §134-21.10. Buffers

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- A. The provision for buffers is intended to separate and shield negative impacts of adjacent land uses and shall be approved by the Planning Board.
- B. A buffer strip that is 10 feet in width shall be provided upon all lots that are both a non-residential use and abut a residential use. This buffer shall be at any side or rear lot lines for any nonresidential use that is abutting a residential property. This buffer strip may be included within the required side or rear yard.
- C. No parking area, building, or other structure or paved area except walks, walls, or fences shall be permitted in any buffer strip.
- D. No storage or display of goods shall be permitted in any buffer strip.
- E. Buffer strips shall include solid fencing of at least 5 feet in height, and not more than 6 feet in height and/or live, healthy vegetation of at least 5 feet in height, and no more than 10 feet in height.
- F. Each buffer strip shall be planted with at least 2 trees and/or shrubs every 10 linear feet. The remainder of each buffer strip shall be landscaped in grass, ground cover, or other vegetation. The remainder may also contain a walk, wall, or fence.

- G. The Planning Board shall require and approve buffers and screening as it determines to be necessary.

#### **§134-21.11. Maintenance**

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- A. The owner of the property, or a designated agent, shall be responsible for the proper care, maintenance, and replacement when necessary of all landscape materials in a healthy and growing condition.
1. Maintenance shall include but not be limited to watering, weeding, mowing, fertilizing, treating, mulching, trimming, removal or replacement of dead or diseased plants and removal of refuse and debris on a regular basis so as to continue a healthy growing condition and present a neat and well-kept appearance at all times.
- B. The owner and occupant of property upon which a buffer strip is located shall maintain the buffer strip in such a manner as to preserve its intended appearance.

### **§134-22. Fences and Walls**

#### **§134-22.1. Permitting and Fees**

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- A. Fences may be erected, installed, or maintained in all districts, notwithstanding the yard requirements of this chapter, in accordance with the provisions in this article.
- B. A building permit is required for all fences or walls constructed in the Village of Falconer except where such fences or walls are constructed primarily for the decoration or protection of home gardens and such fences do not exceed two feet in height.
- C. The building permit must be obtained from the Village Building Inspector before any work can be started.
- D. The fee for such permit shall be set from time to time by resolution of the Village Board of Trustees.

#### **§134-22.2. Erection and Dimensions of Fences and Walls**

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- A. All fences shall have its most pleasant or decorative side facing the adjoining lot with all posts being in the applicant's yard, unless such posts or supports are an integral part of the decorative design of the fence.
- B. The height of a fence or wall shall be measured from the natural grade; excepting where there is a retaining wall, the height shall be measured from the average of the ground

levels at each side of the retaining wall, and further excepting that any fence or wall on the uphill side of such retaining wall may be at least four feet high.

- C. Fences or walls that exceed 2 feet in height shall have a maximum height of 6 feet.
- D. No fence or wall shall be within one foot of any property line or public sidewalk and shall be tapered down to 3 feet high at the sidewalk.
- E. All fences and walls shall be a minimum of 1 foot inside the property line, unless a written agreement is made with the adjoining property owner.
- F. Front Yard Fences:
  - 1. An open or solid fence not exceeding 4 feet in height, measured from sidewalk grade, shall be permitted within the front yard area. For the purposes of this article, the front yard area shall be deemed to be bounded by the front property line and the front building line of the principal building and the side property lines enclosing such front yard. Any yard which abuts a public street shall be subject to regulations for front yard fences.
- G. Side Yard Fences:
  - 1. An open or solid fence not exceeding 6 feet in height, measured from the natural grade along the line of installation, shall be permitted within the side yard areas. For the purposes of this article, the side yard areas shall be deemed to extend along a side property line to the nearest side of the principal building from the front building line of such principal building to the rear building line.
- H. Rear Yard Fences:
  - 1. An open or solid fence not exceeding 6 feet in height, measured from the natural grade along the line of installation, shall be permitted in the rear yard areas at any point where such rear yard abuts the rear yard or an adjoining property. For the purposes of this article, the rear yard area shall be deemed to be bounded by the rear building line of the principal building and the rear property line and the side property lines enclosing such rear yard. In all other cases, an open or solid fence not exceeding six feet in height shall be permitted in the rear yard area.
- I. Barbed, electrical, and other fences:
  - 1. In no case shall barbed wire, spikes, chipped glass, electricity, or similar materials or devices be used in conjunction with or as part of any fence. Exceptions to this

provision may be permitted upon issuance of a conditional use permit issued by the Planning Board where it can be determined that:

- (i) The fence is needed to prevent entry to an area which could be hazardous to the health, safety, or welfare of a person or persons.
  - (ii) The fence is needed to secure an area where materials and/or equipment are stored.
  - (iii) The fence is needed to keep animals other than common household pets, from leaving the site. This may also apply to kennels.
  - (iv) Where, in the Planning Board's opinion, resources are presented which justify the need for such a fence due to general community interests or interests of national safety.
2. Where such fences are permitted, the fact that they are either barbed or electrified shall be clearly indicated on the fences at intervals of not more than 75 feet. Such fence shall be eight feet in height and must not be detrimental to the health, safety, or welfare of any person encountering it.
3. No chain-link fencing shall be permitted in the front setback of any structure or property.
- J. All fences shall be fixed permanently in the ground to ensure its stability.
- K. No fence or wall shall be erected in a way that creates a traffic hazard or endangers public safety.
- L. All fences shall be maintained by the property owner as to meet the original design specification.



# Article 6. Parking, Circulation, and Access

## §134-23. Purpose

**§134-23.1.** This section establishes off-street parking, circulation, and access requirements as a necessary part of the development and use of land. It is the intent of this article to help avoid negative impacts associated with spillover parking into adjacent areas, while also avoiding negative environmental and urban design impacts that can result from parking lots and other vehicular use areas. The provisions of this article are also intended to help protect the public health, safety, and general welfare by:

- A. Helping to avoid and mitigate traffic congestion, traffic hazards, and vehicle and pedestrian interaction;
- B. Encouraging multi-modal transportation options and enhanced pedestrian safety;
- C. Providing methods to reduce impervious surfaces and adequate drainage structures in order to reduce the environmental impacts of stormwater runoff; and
- D. Providing flexible methods for responding to the transportation and access demands of various land uses in different areas of the Village.
- E. No development plan shall be approved, and no permit shall be issued for the erection or occupancy of a building or structure unless the use conforms to the parking requirements of this article.

## §134-24. Applicability

### §134-24.1. New Development

- A. Every use of a building or land hereafter established shall provide the minimum off-street parking spaces as required by this article and conform to all other regulations in this article.

### §134-24.2. Existing Buildings

- A. Building Expansion:
  - 1. Any existing building, where the type of business or occupancy continues, may be remodeled, repaired and structurally altered, but any enlargement shall provide the parking spaces required by the enlargement.

2. Only the expanded portion of the parking lot or area shall be required to comply with the design provisions in this section.
- B. Change of Use:
1. For any existing building or use of land, where the type of business or occupancy is changed, the number of parking spaces to be provided shall be the difference between the required number for the proposed use and those required for the most recent use.
- C. Nonconforming Uses:
1. Notwithstanding anything to the contrary contained in this section, the amount of off-street parking permitted on a property containing a nonconforming use shall not exceed the amount of parking determined to have existed on said property at the time it became a nonconforming use, and shall not be extended onto or relocated to a different part of the lot or parcel in question or elsewhere, unless a use variance is granted for such additional parking.

## **§134-25. Pedestrian and Vehicular Access and Circulation**

### **§134-25.1. Pedestrian Access and Circulation**

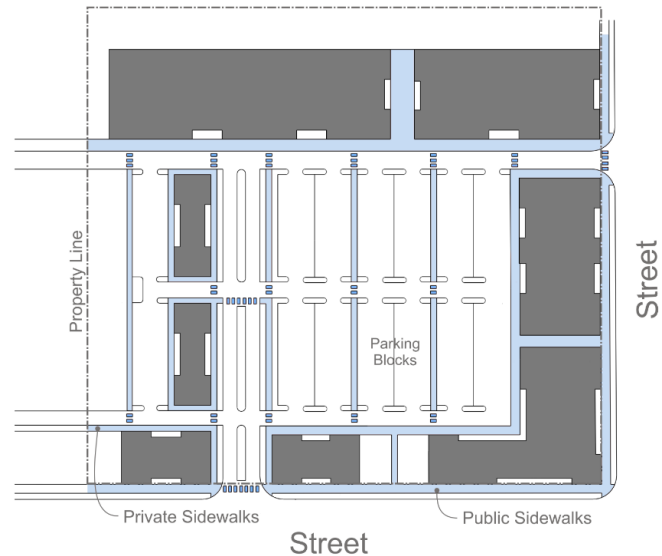
- A. If more than one primary structure is located on a lot, an on-site system of pedestrian walkways shall be designated to provide direct access and connections to and between:
1. The primary entrance or entrances to each commercial building, including pad site buildings;
  2. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with non-residential development;

3. The public sidewalk system along the perimeter streets adjacent to the commercial development;

4. Adjacent land uses and developments, including but not limited to adjacent residential developments, retail shopping centers, office buildings, or restaurants; and

5. Adjacent public park, greenway, or other public or civic use including but not limited to schools, places of worship, public recreational facilities, or government offices.

B. Sidewalks and/or plazas shall provide appropriate pedestrian amenities including but not limited to street tree grates, outdoor seating, trash receptacles, sidewalk displays, and public art.



#### §134-25.2. Vehicular Access and Circulation

A. If more than one primary structure is located on a single lot, internal streets or driveways shall be located to allow vehicle access between individual primary buildings and parking areas. These internal streets or driveways will avoid the need to use public boundary streets to move between different buildings or areas of the development site.

1. Techniques to achieve this include but are not limited to shared driveways, shared access roads, and cross access easements.

2. To the extent practicable, common or shared service and delivery access shall be provided between adjacent parcels and/or buildings.

B. Curbs shall be provided to prevent any vehicle using a parking area from encroaching on any public right-of-way or adjacent property.

- C. Curb cuts and driveways shall connect with the street and shall be constructed as permitted by the Village of Falconer, the New York Department of Transportation, and other appropriate highway agencies.
- D. All driveways shall connect at 90° with the public street or easement which provides access to the lot serviced.
- E. A driveway shall be a minimum of 15 feet in length, except for properties with sidewalk present at the front or side of the property. In these instances, driveways shall be long enough to provide space for a parked vehicle without obstructing the sidewalk.
- F. A required driveway shall be no more than 24 feet in width, except for single-family and two-family dwellings.
- G. Facilities and their access driveways shall be graded to provide for the proper mitigation of stormwater and runoff.
- H. Residential driveways constructed within a required front yard shall not cover more than 35% of said required front yard, and only 1 of the 2 required side yards may be utilized as a driveway. In the case of a corner lot, which has 2 required front yards, the foregoing limitation applies. This coverage limitation is inclusive of parking spaces.

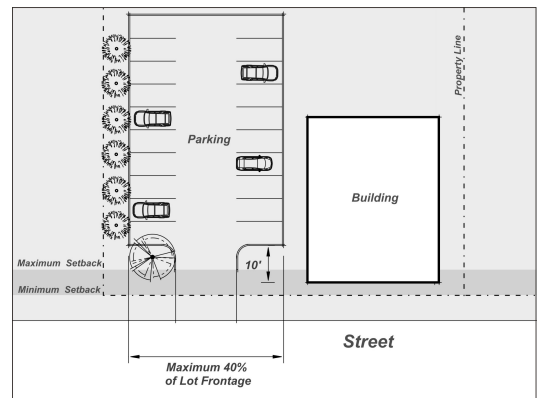
#### §134-25.3. Access to Parking

- A. No ingress or egress to any parking lot shall be permitted within 50 feet of any street intersection and shall be arranged so that vehicles do not back into a street.
- B. Entries for a parking lot should be placed along a secondary thoroughfare wherever practicable.

### §134-26. Off-Street Parking Requirements

**§134-26.1.** No parking shall be permitted in the front yard, except for single-family and two-family dwellings on a designated driveway.

**§134-26.2.** Off-street parking should locate in the rear yard but may also locate in the side yard or underground. Side yard parking shall be located a minimum of 10 feet behind the front façade.



**§134-26.3.** Parking, or access to parking, in the side yard shall not exceed 40% of lot frontage.

**§134-26.4.** For any off-street parking facility required by this article, a layout plan showing entrances, drives, and parking stalls shall be submitted to the Planning Board.

**§134-26.5.** All off-street parking spaces shall be arranged so that all backing movements take place within the parking area and not in a public street, except for single-family and two-family dwellings.

**§134-26.6.** All parking lots shall comply with requirements in Article 5: Landscaping, Buffers, Fences, and Walls.

**§134-26.7. Minimum Required Parking**

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A. All required parking minimums shall be met unless otherwise approved by the Planning Board.

B. R and MR Districts:

1. Residential uses: 1.5 spaces for every dwelling unit
2. Non-residential uses: 1 space for every 300 square feet of gross floor area

C. C and VC Districts:

1. Residential uses: 1.5 spaces for every dwelling unit
2. Non-residential uses: 1 space for every 300 square feet of gross floor area

D. I District:

1. Residential uses: 1.5 spaces for every dwelling unit
2. Industrial uses: 1 space for every 1,000 square feet of gross floor area
3. Commercial uses: 1 space for every 300 square feet of gross floor area

**§134-26.8. Maximum Required Parking**

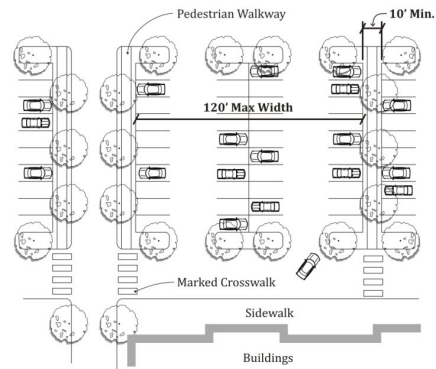
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A. Surface parking spaces shall not exceed 110% of the minimums required in §134.26.7 (Minimum Required Parking), unless approved by the Planning Board.

### §134-26.9. Parking Blocks

- A. In order to reduce the scale of parking areas, the total amount of parking provided shall be broken up into parking blocks containing not more than 40 spaces.

1. Each parking block shall be separated from other parking blocks by buildings, access drives with adjacent landscaped areas at least 10 feet wide, a landscaped median or berm at least 10 feet wide, or by a pedestrian walkway or sidewalk within a landscaped median at least 10 feet wide.



*Parking blocks shall be compact, well landscaped with designated pedestrian facilities.*

2. Each parking block or pod shall have consistent design angles for all parking within the block. Parking blocks shall be oriented to buildings to allow pedestrian movement down and not across rows (typically with parking drive aisles perpendicular to customer entrances).

### §134-26.10. Walkways

- A. All parking areas with more than 20 spaces shall provide pedestrian walkways within the parking area and outside of the drive aisles and parking rows.
1. The walkway shall be a minimum of 10 feet in width. Walkways may be reduced to 5 feet in width if designed as a grade-separated walkway with landscaped buffers on either side.
  2. One walkway shall be required for every double-loaded aisle with more than 20 spaces.
  3. The walkway shall be located within the parking area to serve the maximum number of parking stalls.
  4. All walkways shall comply with the Americans with Disabilities Act (ADA).

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**§134-26.11. Bicycle Parking**

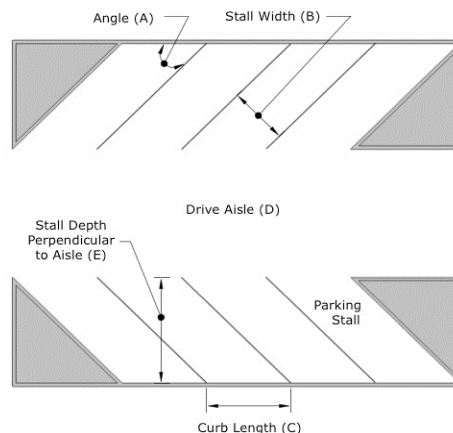
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- A. Bicycle parking shall be provided with all multifamily and nonresidential developments at 10% of the vehicle parking requirements as outlined in §134.-26.7 (Minimum Required Parking), but no fewer than 2 bicycle spaces and no more than 20 bicycle spaces for any single use.
- B. The Village Board of Trustees shall have discretion to permit shared bicycle parking between adjacent and compatible land uses and properties.
  - 1. Bicycle parking shall locate in highly visible areas near the intended use.
  - 2. Bicycle parking racks shall:
    - (i) Be positioned out of walkway clear zones;
    - (ii) Be located to avoid potential conflict with parking and circulation of motor vehicles;
    - (iii) Support the frame of a bicycle upright in two places;
    - (iv) Enable the bicycle frame and one or both wheels to be secured through use of a “U” type lock; and
    - (v) Be securely anchored to an approved hard surface.
  - 3. A space that is 2 feet by 6 feet shall be required to accommodate 2 bicycles.
  - 4. Parallel bicycle racks shall have a minimum on-center spacing of 30 inches. Spacing of 48 inches is optimal.

### §134-26.12. Parking Stall and Aisle Dimensions

- A. The minimum required dimensions of parking stalls and aisles shall follow dimensions in the following table. If proposed parking angles are not shown in the table, the dimensions shall be determined by the Planning Board.

Minimum Parking Space and Aisle Dimensions					
Angle (A)	Stall Width (B)	Curb Length (C)	Drive Aisle (D) One-way Aisle	Drive Aisle (D) Two-way Aisle	Stall Depth (E)
0° (Parallel)	8 feet	22 feet	12 feet	20 feet	8 feet
45°	9 feet	12.7 feet	13 feet	—	16.5 feet
60°	9 feet	10.4 feet	18 feet	24 feet	18 feet
90°	9 feet	9 feet	—	24 feet	17.5 feet



### §134-26.13. Design of Parking

- A. No surface parking lot shall have a slope in excess of 10%.
- B. Parking lots shall contain substantial and permanent wheel stops, bumper guards, or other alternatives, which are properly anchored and secured. These shall be provided to prevent vehicles from damaging or encroaching upon any sidewalk, landscape, fence, wall, or structure.
- C. Parking lots shall be improved with necessary lighting and traffic control signs.
- D. No parking space shall be located as to block access by emergency vehicles.



- E. The interior of every parking lot shall be landscaped in accordance with Article 5: Landscaping, Buffers, Fences, and Walls.

#### **§134-26.14. Materials and Drainage**

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- F. All parking lots and access driveways thereto should be paved with permeable and porous materials that allow for precipitation and surface runoff to infiltrate to the soil below.
- G. All materials shall be graded and drained to properly dispose of surface water accumulation.
- H. Adequate drainage and grading of the parking lot shall be provided so that surface water does not encroach on any other properties.
- I. Owners are responsible for adequate snow removal. The owner, agent, tenant, occupant, or person having charge of any buildings or lands which have associated off-street parking areas shall cause such off-street parking areas to be cleared of snow, ice, or sleet within 12 hours of daylight after snowfall accumulation slows.

#### **§134-26.15. Illumination and Screening**

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- J. All illumination of off-street parking lots shall be arranged in a way that directs all light away from the street and other adjacent properties.
- K. Shrubbery, fences, and walls shall be erected and maintained in accordance with Article 5: Landscaping, Buffers, Fences, and Walls.

### **§134-27. Parking Alternatives and Adjustments**

#### **§134-27.1. Ancillary Parking**

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- A. Where parking requirements cannot be satisfied on the same lot, a requirement may be satisfied with ancillary parking that is within 100 feet of the same lot, upon obtaining a special use permit as provided in Article 9.
- B. All ancillary parking shall be subject to supplemental regulations detailed in Article 3.

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**§134-27.2. Shared Parking**

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- A. The Planning Board may approve shared parking facilities for developments or uses with different operating hours and/or peak business periods, subject to the following requirements:
1. Parking is for 2 or more uses located on the same lot or with a common lot line;
  2. All shared parking facilities are located within 500 feet of the uses served;
  3. A pedestrian circulation plan is submitted to the Planning Board that shows connections and walkways between shared parking areas and uses. Paths should be as direct and short as possible;
  4. A parking demand study is submitted to the Planning Board that demonstrates the feasibility of the shared parking arrangement and include the size and use of the proposed development(s), the anticipated parking demand for each use, and the peak periods of parking demand for each use.
  5. The shared parking plan is developed and enforced by an irrevocable written covenant among all owners of record. A copy of the covenant must be submitted to the Planning Board and recorded in the County recorder's office before any building permits are issued for any use to be served by the shared parking area.

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**§134-27.3. Parking Adjustments**

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- A. The Planning Board may approve an alternative parking plan that reduces or increases off-street parking requirements as those shown in §134-26.7 (Minimum Required Parking), based on a parking demand study and/or assessment.
- B. The Planning Board may use their discretion to recommend to the Village Board of Trustees a modification of requirements for parking and loading, and:
1. Require additional parking spaces if they find the requirements insufficient;
  2. Require fewer parking spaces if they find the requirements excessive; and/or
  3. Permit spaces for separate uses to be combined in one parking lot. The Planning Board shall consider existing parking spaces and parking in the vicinity of the proposed development.

**§134-28. Loading Space Requirements**

- §134-28.1.** Loading space in the Industrial District may locate in the front yard. Loading spaces shall locate in the side yard or rear yard of all other districts.
- §134-28.2.** A minimum of one loading space shall be provided for each commercial or industrial use exceeding 20,000 square feet of gross floor area. For each industrial use, loading spaces shall not be less than 10 feet in width and 55 feet in length. Each loading space shall be appropriate to accommodate each vehicle.
- §134-28.3.** Off-street loading spaces shall be located on the same lot or parcel as the structure or use for which it is provided.
- §134-28.4.** Loading spaces and maneuvering areas shall be designed so that loading operations:
1. Do not encroach upon any sidewalk, street, public right-of-way, or fire lane; and
  2. Do not occupy any required off-street parking spaces or access driveways.
- §134-28.5.** No loading space shall be located closer than 10 feet from a lot line abutting any residential zoning district.
- §134-28.6.** All loading areas shall be signed to indicate “No idling for more than 15 minutes.”
- §134-28.7.** All loading areas shall provide a snow storage area sized to accommodate expected snowfall and located to ensure that fencing, landscaping, and other screening devices are protected from damage.
- §134-28.8.** All loading areas shall comply with the landscaping and screening standards in Article 5: Landscaping, Buffers, Fencing, and Walls.

# Article 7. Site Plan Review

## §134-29. Site Plan Review and Approval

Prior to the issuance of a building or zoning permit, including permits for the construction of parking lots and parking areas, the Planning Board shall require the preparation and submittal of a site plan for its review and approval in accordance with the standards and procedures set forth in this article. A site plan shall not be required for single-family dwellings, two-family dwellings, and related residential accessory uses.

## §134-30. Sketch Plan Conference

**§134-30.1.** A sketch plan conference may be held between the Planning Board and the applicant to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the sketch plan conference, the applicant should provide the data discussed below in addition to a statement or a rough sketch describing what is being proposed. The following items should be provided to review:

- A. An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, and easements within 200 feet of the boundaries thereof.
- B. A map of site topography at no more than 5 feet contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding, or ponding a topographic map shall be provided.

## §134-31. Application for Preliminary Site Plan Approval

**§134-31.1.** An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the sketch plan conference.

**§134-31.2.** Preliminary Site Plan Checklist:

- A. Title of drawing, including name and address of the applicant and person responsible for preparation of the drawing;
- B. North arrow, scale, and date;
- C. Boundaries of the property plotted to scale;
- D. Existing waterways and hydrography;

- E. Grading and drainage plan, showing existing and proposed contours;
- F. Location, proposed use, and height of all buildings and structures;
- G. Location, design, and construction materials of all parking and loading areas, showing access, ingress, and egress;
- H. Provision for pedestrian access;
- I. Location of outdoor storage, if any;
- J. Location, design, and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls, and fences;
- K. Description of the method of sewage disposal and location, design, and construction materials of such facilities;
- L. Description of the method of securing potable water and location, design, and construction of such facilities;
- M. Location of fire and other emergency zones, and the location of fire hydrants;
- N. Location, design, and construction materials of all energy distribution facilities;
- O. Location, size, design, and construction materials of all proposed signs;
- P. Location and proposed development of all buffer areas, including existing vegetative cover;
- Q. Location and design of outdoor lighting facilities;
- R. Designation of the amount of building area proposed for retail sales or other commercial activity;
- S. Landscaping plan and planting schedule; and
- T. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any State or County permits required for the project's execution.

## **§134-32. Village Planning Board Review of Preliminary Site Plan**

- §134-32.1.** The Planning Board's review of a preliminary site plan shall include, as appropriate, but is not limited to, the following:
- A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;

- B. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience;
  - C. Location, arrangement, appearance, and sufficiency of off-street parking, bicycle parking, and loading areas;
  - D. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;
  - E. Location, arrangement, and proper visual screening of HVAC units and other similar utilities;
  - F. Adequacy of stormwater and drainage facilities;
  - G. Adequacy of water supply and sewage disposal facilities;
  - H. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation;
  - I. In the case of an apartment complex or other multifamily dwelling, the adequacy of useable open space for play areas and passive recreation;
  - J. Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features;
  - K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants and adequate fire flows; and
  - L. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, or erosion.
- §134-32.2.** The Planning Board may consult with the Code Enforcement Officer, Department of Transportation, or other local and County officials and their designated private consultants in addition to representatives of Federal and State agencies.
- §134-32.3.** The Planning Board shall decide on the complete application for preliminary site plan approval within 45 days of its receipt. If no decision is made within said 45-day 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 the preliminary site plan is approved, disapproved, or approved with modifications.

- §134-32.4.** The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

### **§134-33. Required Referral**

Prior to signing off on final approval for the final site development plan, the Planning Board shall refer the plan to the Chautauqua County Planning Board for advisory review and report in accordance with 239 L&M of the General Municipal Law.

### **§134-34. Village Planning Board Action on Final Detailed Site Plan**

- §134-34.1.** Within 45 days of receipt of the complete application for final site plan approval, the Planning Board shall render a decision to the Code Enforcement Officer. If no decision is made within the 45-day period, the final site plan shall be considered approved.
- §134-34.2.** 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 and shall forward such copy to the Code Enforcement Officer.
- §134-34.3.** Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

### **§134-35. Procedure for Final Detailed Site Plan Approval**

- §134-35.1.** After receiving approval with or without modifications from the Planning Board a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than 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 submission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

The final site plan shall conform substantially to the approved preliminary site plan. It should 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.

**§134-35.2.** The following additional information shall accompany an application for final site plan approval:

- A. Record of application for and approval status of all necessary permits from State and County officials;
- B. Detailed sizing and final material specification of all improvements; and
- C. An estimated project construction schedule.

### **§134-36. Reimbursable Costs**

Costs incurred by the Planning Board for consultant fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. A deposit from the applicant may be required for such expenses. Further details concerning reimbursable costs can be found in Article 10 under §134-56.

### **§134-37. Inspection of Improvements**

**§134-37.1.** The Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the local Highway Superintendent, NYS Department of Transportation and other officials and agencies, as appropriate.

**§134-37.2.** No certificate of occupancy shall be issued until all improvements shown on the site plan are installed.

### **§134-38. Waivers**

For good cause shown, the Planning Board may waive specific submittal requirements.



## Article 8. Nonconforming Uses and Structures

### §134-39. Applicability

These provisions shall apply to all buildings or structures and all uses of buildings or structures or lots lawfully existing prior to the effective date of this article or of subsequent amendments, revisions, or reenactments on their effective dates.

### §134-40. Unlawful Buildings, Structures, or Uses

No unlawful building or structure or unlawful use of a building or structure or lot existing at the effective date of this Chapter shall be deemed to be a nonconforming building, structure, or use.

### §134-41. Continuation

Except as otherwise provided in this section, the lawful use of any buildings or land existing at the date of adoption of this Article may be continued even though such use does not conform to the provisions of this Article for the district in which such land is located. Nonconforming use rights, subject to the provisions of this law remain with the land when title is transferred.

### §134-42. Extension of Nonconforming Use

A nonconforming use shall not be enlarged or extended to other structures or lot not already devoted to such use.

### §134-43. Restoration and Repair

**§134-43.1.** A nonconforming structure shall not be reconstructed, structurally altered, restored or repaired to an extent exceeding 50% of the replacement cost of such structure, exclusive of foundations, unless the use of such structure is changed to a conforming use, provided that the reconstruction, restoration, or repair of a structure partially destroyed shall commence within 6 months of the date of the partial destruction and is completed within 12 months of the date of destruction.

**§134-43.2.** A nonconforming structure or part thereof declared unsafe by proper authorities may be restored to safe and sanitary condition.

**§134-44. Abandonment or Discontinuance**

Whenever a nonconforming structure has been abandoned or a nonconforming use discontinued for a period of 12 consecutive months, from a beginning date to be determined by the Code Enforcement Officer, such nonconforming structure or use shall not be reestablished.

# Article 9. Special Use Permits

## §134-45. Purpose

The purpose of this Article is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this Chapter and their effect on the surrounding properties and community character. These requirements are intended to promote the public health, general safety, and neighborhood character of the immediate neighborhood and the Village as a whole.

## §134-46. Applicability

- §134-46.1. This article is applicable to the uses specially permitted, which are listed in Article 2 of this Chapter. Uses allowable by special use permit must obtain Planning Board approval via the special use permit process prior to operation.
- §134-46.2. Uses permitted by right shall not require Planning Board approval, provided they meet all applicable requirements set forth in this Chapter and are granted Site Plan Review approval by the Planning Board as specified in Article 7 of this Chapter.
- §134-46.3. All applications must comply with the following standards. Additional standards for certain uses that require a special use permit can be found in Article 3 of this Chapter.

## §134-47. Procedure and Approval

- §134-47.1. An application for a special use permit shall be filed with the Village Clerk.
- §134-47.2. Site plan approval is a required step in the consideration and approval of all special use permits. Site Plan Review shall be carried out prior to these special use permit procedures.
- §134-47.3. The Planning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to or incidental to the proposed special use permit.
- §134-47.4. The Planning Board shall conduct a public hearing within 62 days from the day an application is received on any matter referred to it under this section.
- §134-47.5. The Village shall publish, at least 5 calendar days prior to the date of the public hearing, a notice of the application and shall also send a copy of such notice to the applicant. Such notice shall be sufficient to identify the property involved and the nature of the proposed action.

- §134-47.6.** The Planning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare of the Village.
- §134-47.7.** The Planning Board shall render its decision within 62 days after the hearing. The time within which the authorized board must render its decision may be extended by mutual consent between the applicant and the Village Board of Trustees.
- §134-47.8.** A majority vote of the members of the Planning Board shall be necessary to decide in favor of the applicant for any special use permit.
- §134-47.9.** The decision of the Planning Board shall be filed in the office of the Village Clerk within 5 business days after such decision is rendered, and a copy thereof shall be mailed to the applicant.

## **§134-48. General Findings**

- §134-48.1.** The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project.
- §134-48.2.** If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the standards outlined below and include the facts and reasons upon which the denial was based:
- A. Compatibility of the proposed use with the principles of the district, the purposes set forth in this Chapter, and the goals of the Village of Falconer Comprehensive Plan;
  - B. The lot area is of sufficient size and appropriateness for the proposed use;
  - C. The proposed use will not prevent the orderly and reasonable use of adjacent properties;
  - D. The site's location within the community is suitable for the proposed use;

- E. The access facilities are adequate for the estimated traffic from public streets or highways to ensure the public safety and to avoid traffic congestion;
- F. There are an adequate number of off-street parking spaces provided for the anticipated use and the layout of the spaces and driveways is conducive to safe operation for motorists without compromising the safety of pedestrians and bicyclists;
- G. There is adequate buffering, landscaping, screening, and circulation provided in accordance with Article 5 and Article 6 of this Chapter; and
- H. The proposed use will comply with all other regulations applicable to such use as listed in Article 2 and Article 3 of this Chapter.

#### **§134-49. Expiration**

- §134-49.1.** A special use permit shall be deemed to authorize only the particular special use specified therein.
- §134-49.2.** A special use permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit (unless other provisions are set forth by the Planning Board in connection with its approval) 12 months after approval.
- §134-49.3.** A special use permit will expire if the special use shall cease for any reason for more than 12 consecutive months.

#### **§134-50. Revocation**

In any instance where the conditions of a special use permit have not been or are not being complied with, the Code Enforcement Officer shall immediately issue a stop order to the applicant, which shall list the violations. If the applicant shall not have made substantial effort to comply with the stop order within 10 calendar days, the special use permit shall be revoked.

# Article 10. Administration and Enforcement

## §134-51. Interpretation

- §134-51.1.** In applying and interpreting this Chapter, its provisions shall be held to minimum requirements necessary to accomplish the purpose of the Chapter. When requirements of this Chapter conflict with the requirements of other lawfully developed rules, regulations, or local laws, the most restrictive or that imposing higher standards shall govern.
- §134-51.2.** The Village Board of Trustees is authorized to create both a Planning Board and a Zoning Board of Appeals. The Village shall be subject to requirements within both §7-718 and §7-712 respectively.

## §134-52. Planning Board

In accordance with §7-718 of NYS Village Law, the Village Board of Trustees is authorized to create a Planning Board. The Village shall be subject to requirements within §7-718.

### §134-52.1. Membership

- A. The Planning Board shall consist of 5 members appointed by the mayor and subject to the approval of the Village Board of Trustees.
- B. No person who is a member of the Village Board of Trustees shall be eligible for membership on the Planning Board.
- C. The terms of members of the Planning Board first appointed shall be so fixed that the term of one member shall expire at the end of the Village's official year in which such members were initially appointed. The terms of the remaining members first appointed shall be so fixed that one term shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, their successor shall be appointed for a term which shall be equal in years to the number of members of the board.

### §134-52.2. Board Member Training

- A. Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties.
- B. Training received by a member in excess of four hours in any 1 year may be carried over by the member into succeeding years in order to meet training requirements.

- C. Such training shall be approved by the Village Board of Trustees and may include, but is not limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college, or other similar entity.

### **§134-53. Powers and Duties of the Code Enforcement Officer**

The provisions of this Chapter shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Village Board of Trustees. The Code Enforcement Officer shall have the power to:

- §134-53.1.** Receive and examine all applications for zoning permits and to refer applications to the Planning Board for review and recommendation when deemed advisable;
- §134-53.2.** Issue zoning permits and certification of occupancy when there is compliance with the provisions of this Chapter and with other Village Laws provided. However, the issuance of a zoning permit shall not be deemed a waiver of the requirements of any Village ordinance;
- §134-53.3.** Review applications for special use permits and forward these applications to the appropriate boards;
- §134-53.4.** Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Chapter;
- §134-53.5.** Issue stop, cease and desist orders, and order in writing correction of all conditions found to be in violation of the provisions of this Chapter. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Code Enforcement Officer to be violating the terms of this Chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Code Enforcement Officer. Any person found guilty of a violation of this Chapter or the terms of a special use permit or variance shall be subject to a penalty of not less than \$250 and not more than \$500 in addition to any other penalties herein set forth;
- §134-53.6.** The Code Enforcement Officer shall be able to restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises;
- §134-53.7.** Revoke a zoning permit issued under a mistake of fact contrary to the law or the provisions of this Chapter;
- §134-53.8.** Maintain a map showing the current zoning classification of all land within the Village; and

- §134-53.9.** Present facts, records, or reports to the Village Board of Trustees, the Planning Board, or the Zoning Board of Appeals upon request.

## **§134-54. Certification of Occupancy**

No land shall be used, changed, or occupied and no building hereafter erected, constructed, reconstructed, extended or altered until a Certificate of Occupancy is issued by the Code Enforcement Officer. A Certificate of Occupancy states that the buildings, structures, or proposed use complies with the provisions of this Chapter and any other pertinent ordinance of the Village of Falconer, including but not limited to the Uniform Fire Prevention and Building Code (Uniform Code).

## **§134-55. Fees**

Fees for a Certificate of Zoning Compliance or a Certificate of Occupancy shall be issued in accordance with a fee schedule adopted by resolution of the Village Board of Trustees as such schedule may be amended by resolution of the Village Board of Trustees.

## **§134-56. Reimbursement for Consulting Fees**

- §134-56.1.** In the review of any application, the Village of Falconer may seek the services of engineers, planners, architects, or other professionals to assist the Planning Board in the consideration of development proposals.
- §134-56.2.** The applicant or other party seeking determination shall reimburse the Village of Falconer for the cost of such consultant or professional services.
- §134-56.3.** Charges made by such consultants shall be in accord with charges usually made for such services in Western New York and Chautauqua County or pursuant to an existing contractual agreement between the Village and such consultant. Charges incurred by the Village using Village employees' services shall be billed in accord with the hourly rates upon which the employee's actual salary is based and incorporating all fringe benefits and reasonable overhead costs.

## **§134-57. Violations and Penalties**

- §134-57.1.** The violation of any provision of this Chapter shall be punished by a fine not to exceed \$1,000 for any offense or violation or by imprisonment not to exceed 15 days. Each day that a violation of any provision of this Chapter continues shall constitute a separate violation. The Village of Falconer shall have the power to institute any appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, extension, alteration, or change in use of any building or land.



- §134-57.2.** Where a violation of this Chapter is determined to exist, the Code Enforcement Officer shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure or lot where such violation has been committed or shall exist; and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist; and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure or lot in which any such violation shall exist.
- §134-57.3.** Such notice shall require the removal of the violation within 15 days after service of the notice.
- §134-57.4.** Any person ordered to comply with the provisions of this Chapter or to cease and desist any use prohibited by this Chapter, and who is in disagreement with the judgment of the Code Enforcement Officer, may appeal to the Zoning Board of Appeals, provided that a written statement is filed pursuant to §134-59.

## **§134-58. Zoning Board of Appeals**

- §134-58.1.** There is hereby established a Zoning Board of Appeals which shall consist of 5 members, each to be appointed for 3 years by the Village Board of Trustees subject to the provisions of the Village Law of the State of New York.
- §134-58.2.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the board may determine. All meetings of the Zoning Board of Appeals shall be open to the public.
- §134-58.3.** The Zoning Board of Appeals shall have the authority to modify any of the provisions of this Chapter. Every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Village Clerk. These shall be on public record.

## **§134-59. Appeals Procedure**

- §134-59.1.** Any person aggrieved by a decision or determination of the officer responsible for enforcement of this Chapter may appeal to the Zoning Board of Appeals. The board shall hear and decide all matters referred to it or upon which it is required to pass in accordance with the provisions of this Chapter. In considering an appeal, the Zoning Board of Appeals shall be guided by the circumstances of the situation and the intent of the appellant and shall act as to protect the best interests of the community.

- §134-59.2.** All appeals and applications to the Zoning Board of Appeals shall be made in writing and shall be submitted to the Code Enforcement Officer who shall refer them to the board. All appeals shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule.
- §134-59.3.** The Zoning Board of Appeals shall conduct a public hearing where parties in interest and citizens must be given an opportunity to appear and be heard, subject to reasonable rules of procedure. Notice of the public hearing must be provided at least 5 days prior to the parties involved, Chautauqua County, and the Village Planning Board in accordance with New York State Municipal Law section 239-m. The issue shall be decided within 62 days after the final hearing.

## **§134-60. Variances**

- §134-60.1.** The Zoning Board of Appeals shall have the authority to pass appeals where, as a result of exceptional physical conditions connected with a particular site, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter that would deprive the owner of the reasonable use of the land or building involved.
- §134-60.2.** Every decision by the Zoning Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.
- §134-60.3.** Every variance granted by the Zoning Board of Appeals may be subject to such additional conditions and safeguards as the board shall deem to be applicable to the case. Violations of such conditions and safeguards that are a part of the board's decision shall be deemed a violation of this Chapter and are punishable under the provisions of §134-57.
- §134-60.4.** Any use variance granted by the Zoning Board of Appeals pursuant to the provisions of this section shall be construed to be a nonconforming use.