

ARTICLE X
Waterfront District (WF)
(9-28-10)

§ 224-39. Purposes and intent.

The Waterfront District (WF) is intended to provide for the use of former industrially-zoned properties located on the Hudson River waterfront in a manner that: maintains the continued vitality of these properties; is architecturally compatible with existing development on the waterfront; respects the historic character of the district; creates public outdoor space and access to the waterfront; is harmonious with the surrounding zoning districts and development; has no material adverse effect on the health and vitality of the Main Street area of the Village; minimizes and manages traffic impacts; avoids impacts to floodways and floodplains; avoids impacts to water quality of the Hudson River; and accomplishes the objectives of the Village's Comprehensive Plan, most notably viewshed protection.

§ 224-40. Use regulations.

A. No building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following:

(1) Permitted principal uses.

- (a) Retail stores not exceeding 10,000 square feet of floor area per individual store.
- (b) Banks.
- (c) Personal service stores, such as but not limited to barbershops, beauty parlors and tailors.
- (d) Hotels.
- (e) Service establishments furnishing services other than of a personal service nature, but not including automobile service.
- (f) Business, administrative or professional offices.

- (g) Theaters and restaurants.
- (h) Fitness clubs.
- (i) Outlets and pickup stations for laundries and cleaning establishments, excluding on site washing or cleaning of wearing apparel or household effects.
- (j) Nursery schools, adult and child day care centers.
- (k) Boating and sailing instruction schools.
- (l) Dance, music and fitness studios, in either classes or individual instruction format.
- (m) Art dealers.
- (n) Museums.
- (o) Boat or yacht clubs or marina facilities, including water taxis.
- (p) Farmers' market.
- (p) Public utility installations needed to serve the Village or the neighborhood, subject to a determination by the Board of Appeals that no other reasonable location in a less restricted district can be used for the purpose contemplated and subject, further, to such conditions as said Board may deem to be appropriate for the protection of adjoining uses and of the character of the district. Wireless telecommunication services facilities shall also be subject to Article XXI of Chapter 224, Zoning, of the Village Code.

(2) Permitted accessory uses.

- (a) Signs, excluding billboards, awnings and canopies, provided that such signs shall be limited as follows: [*NB: These merely incorporate existing regulations for signs.*]

[1] No more than one such sign shall be permitted for each tenant on the premises, unless for directional or directory purposes.

- [2] The aggregate area of all signs on any wall shall be not greater than one square foot for each horizontal linear foot of said wall or 100 square feet, whichever is less.
- [3] No sign shall exceed two feet in height.
- [4] No sign shall contain any lettering more than two feet in height.
- [5] Flashing, moving, changing or intermittently illuminated signs or advertising devices are prohibited.
- [6] Temporary signs made of cardboard, paper, canvas or similar impermanent materials placed on the outside of any building are prohibited.
- [7] A lawfully existing nonconforming sign, when once removed, shall be replaced only with a sign conforming to these regulations.

- (b) Awnings and canopies, subject to the conditions and procedures in Article IX, Business District.
- (c) Accessory buildings and accessory uses customarily incidental to a permitted use, including parking structures serving one or more permitted use.

(3) Special permit uses.

- (a) Dwelling units, including dwelling units above the first floor over uses permitted under subsection A.1 of this section, upon grant of a Special Permit by the Board of Trustees in accordance with the procedures specified in § 224-8F of this chapter.¹ Further, the following additional requirements shall be met:

- [1] All habitable space within such dwelling units shall be located only above the one hundred-year floodplain.

¹ Chapter 224-8F has to be amended to provide for Board of Trustees' approval of special permits. (This has to be done in any event.)

- [2] The gross floor area of all dwelling units shall not exceed 25% of the total gross floor area of all buildings and structures within the Waterfront District.

- (b) Retail stores greater than 10,000 square feet of floor area, upon grant of a Special Permit by the Board of Trustees in accordance with the procedures specified in § 224-8F of this chapter. Further, the following additional requirements shall be met:
 - [1] The proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the Waterfront District and will not be detrimental to the orderly development of adjacent properties.

 - [2] A traffic impact study and parking analysis must demonstrate that potential traffic generation shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access, that traffic circulation and exit and entrance drives are laid out to minimize traffic hazards and nuisances, and that parking and loading demand for existing and proposed uses can reasonably be handled within the site.

- (c) Research, design, and development facilities, upon grant of a Special Permit by the Board of Trustees in accordance with the procedures specified in § 224-8F of this chapter. Further, the following additional requirements shall be met:
 - [1] All activities shall be carried on within fully enclosed buildings.

 - [2] None of the following shall be permitted:
 - [i] Chemical plants.

 - [ii] Motor-testing laboratories.

 - [iii] Facilities using explosives.

 - [3] No offensive noises, gases, fumes, odors, vibrations, or radio,

electric or electronic emanations, or other objectionable influences or hazards shall emanate from such use, and no waste products shall be discharged therefrom of a character to create a nuisance or hazard to public health and safety.

- [4] No radioactive materials shall be kept or used on the premises.
- [5] The proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the Waterfront District and will not be detrimental to the orderly development of adjacent properties.
- [6] A traffic impact study and parking analysis must demonstrate that potential traffic generation shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access, that traffic circulation and exit and entrance drives are laid out to minimize traffic hazards and nuisances, and that parking and loading demand for existing and proposed uses can reasonably be handled within the site.

- B. Existing uses. Businesses existing lawfully on [*insert day before law is enacted*] may continue as if they were a permitted principal use provided that the use is not noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, vibration or radiation and does not present a hazard to public health, safety or welfare. Such business shall not be reestablished if it has been discontinued for any reason for a period of over 90 days or has changed to or been replaced by a use permitted in the WF District. Intent to resume such business shall not confer the right to do so.
- C. The following uses shall be prohibited regardless of their inclusion as a permitted use in § 224-40.A:
 - (1) Any use that is noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, vibration or radiation or that presents a hazard to public health, safety or welfare.
 - (2) The use of premises for the operation of any fast-food establishment or any restaurant or food service business providing curbside or drive-through service.

§ 224-41. Review process for applications in the WF District.

- A. General review process. An application for approval of any construction or any new use or change of use in the WF District shall comply with the following procedures:
- (1) A WF Site Master Plan, approved by the Board of Trustees pursuant to this section, shall be required for:
 - (a) The erection of any building in the WF District, except for a fence or retaining wall projecting above the ground not more than three feet at the higher ground level and not more than 6 ½ feet at the lower ground level.
 - (b) The alteration of any building in the WF District that would result in an increase in required parking.
 - (2) In addition, any such erection or alteration shall require site development plan approval, pursuant to Article XIV of this chapter.
 - (3) Where a WF Site Master Plan has not been approved and a change of occupancy or use is proposed that does not involve such construction or alteration, a change of occupancy or use certification must first be obtained pursuant to § 224-54 of this chapter.
 - (4) Where a WF Site Master Plan is approved, all construction and uses must be consistent with the WF Site Master Plan.
 - (a) Where site development plan approval is required by Article XIV of this chapter, the Planning Board shall determine consistency with the WF Site Master Plan.
 - (b) Where a special permit is required by this chapter, the Board of Trustees shall determine consistency with the WF Site Master Plan.
 - (c) Where a change of occupancy or use certification is required by this chapter, the Building Inspector shall determine consistency with the WF Site Master Plan.²

² Section 224-54 of the Zoning Code will have to be amended at the same time this amendment is adopted, to require compliance with the WF Site Master Plan in the WF District.

B. WF Site Master Plan review process.

- (1) Application. The WF Site Master Plan application shall include 18 copies of the following information, in form and detail sufficient to enable the reviewers to understand the general nature and scope of the applicant's proposal. The WF Site Master Plan shall include all dry-land area west of the railroad tracks from the northern border of the WF District to Scenic Hudson Park. (This area is referred to below as "the site" or "the entire site.")
 - (a) A location map of the site in relation to the surrounding area showing all roads and key development features.
 - (b) A current topographic map of the property showing two (2)-foot contour lines and the FEMA floodway and 100-year floodplain boundaries; a Village of Irvington Floodplain Development Permit application (completed pursuant to Chapter 124, "Flood Damage Prevention"); and an encroachment certification (or "no-rise" certification) demonstrating that proposed development within the FEMA floodway will not increase flood heights upstream of the site (completed pursuant to §124-5.A(2)(b)).
 - (c) A plan showing existing buildings, parking areas, sidewalks, open spaces, circulation pathways, and the location of above-ground and below-ground utilities.
 - (d) A conceptual sketch plan map indicating the approximate quantity, nature, and location of proposed land uses; the proposed open space system and its relationship to neighboring open spaces; the proposed principal means of access to the site and major elements of the site circulation system; the proposed provision for parking; water supply and wastewater disposal utility connections; and, to the extent known, the height, bulk, location, and general design of buildings and other structures (e.g., facade elevations), interior lot lines, if any, and the general floor plans for each building.
 - (e) A written statement describing the proposed land uses and design elements of the WF Site Master Plan and the general reasons why the applicant believes that approval of the WF Site Master Plan would further the legislative purposes and intent of the WF District zoning, and any other pertinent supporting rationale or documentation.

- (f) A quantitative analysis for the entire site that indicates the floor space of existing and proposed commercial and residential uses, the proposed number of residential dwelling units by size (number of bedrooms) and type (multi-family, town-house, rental/ownership), existing and proposed parking spaces including analysis of shared parking demand, and the area, percentages of the site, and floor area ratios proposed for each type of land use.
- (g) Proposals for the construction, operation, and maintenance of all planned utility systems, roadway improvements, sidewalks, trails, and other infrastructure.
- (h) Proposals for the ownership, use, and maintenance of all open spaces.
- (i) A description of any proposed covenants and restrictions intended to be offered by the applicant.
- (j) A list of all governmental approvals, permits, and licenses required for each phase of development.
- (k) Proof of title and an affidavit as to ownership and/or control of all involved properties. The WF site may be owned by one or more persons, partnerships, limited partnerships, trusts, or corporations, but must be presented as a single property at the time of the application to the Village Board. Such multiple owner applications shall be jointly filed and consented to by all owners and, if approved, shall be binding on all of them and all future owners. Legal agreements, in recordable form and in substance satisfactory to the Village Attorney, shall be provided to ensure this.
- (l) A traffic impact study and parking analysis demonstrating that potential traffic generation shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access and that traffic circulation, exit and entrance drives are laid out to minimize traffic hazards and nuisances and that parking demand for existing and proposed uses can reasonably be handled within the site giving appropriate credit for location of the site next to the train station.
- (m) The names and addresses of the owners of properties in a radius of 500 feet from each property line of the site.

- (n) Projected schedule for development.
- (2) Review and action by Board of Trustees
- (a) Upon receipt of a complete application, the Board of Trustees shall refer the WF Site Master Plan to the Planning Board and schedule a public hearing with the same notice as required by this chapter for an application to the Board of Appeals.
 - (b) Before the close of the public hearing on the WF Site Master Plan, but no later than 60 days from receipt of the referred WF Site Master Plan, the Planning Board shall file with the Board of Trustees an advisory report on the WF Site Master Plan. In recommending the adoption or rejection of the WF Site Master Plan, the Planning Board shall state the reasons for its recommendations. The failure of the Planning Board to file an advisory report as required by this section shall not affect the power of the Board of Trustees to act on the proposed WF Site Master Plan.
 - (c) Action by Board of Trustees.
 - [1] The Board of Trustees shall approve, conditionally approve, or disapprove the proposed WF Site Master Plan. Approval or conditional approval shall not be deemed to create vested rights or to waive any right of the Village to a subsequent detailed review of any aspect of the proposed development or of any specific subdivision or site plan as required pursuant to this article, including environmental review pursuant to the New York State Environmental Quality Review Act (SEQRA).
 - [2] Conditions of approval may include, without limitation:
 - [i] Required modifications of any aspect of the proposed WF Site Master Plan, including partial approval of all or any portion of the WF Site Master Plan;
 - [ii] Restrictions on the quantity, type, and location of each permitted land use;

- [iii] Creation or modification of access roadways and/or overpasses, including access to any designated trailway;
- [iv] Requirements related to the construction, ownership, operation, and maintenance responsibility for both on-site and off-site infrastructure improvements;
- [v] Provisions ensuring the permanent ownership, preservation, and maintenance responsibility for required open spaces and for buildings or sites of significant historical and/or archaeological value;
- [vi] The dedication of open or recreational space;
- [vii] The establishment of standards, including design, performance, and/or bulk standards, as determined appropriate by the Village Board, to govern the future approval of detailed subdivisions and/or site plans for individual sections of the WF Site Master Plan by the Planning Board;
- [viii] Requirements related to the phasing, timing, and/or sequencing of the WF Site Master Plan and related improvements; and
- [ix] Any other items relating to the health, safety, and general welfare of the public.

- (d) Expiration of approval. Approval of the WF Site Master Plan shall expire in five years or as set forth in the Board of Trustees' approval, unless the applicant has made substantial progress in advancing design, financing or permitting of the proposed development or unless such time limit has been extended by the Board of Trustees.

§ 224-42. Standards for review of WF Site Master Plan.

- A. General Standards. The Board of Trustees, without limiting its legislative discretion, shall consider at least the following matters in determining the suitability of the proposed WF Site Master Plan:

- (1) The extent to which the application implements the legislative purposes and intent, as set forth in §224-39.
- (2) The proposed mix of land uses and their planned design and arrangement on the site, including compatibility with site conditions, and with neighboring streets and land uses.
- (3) That the development is sited, sized and configured so as to result in minimum impact upon the viewsheds from Main Street east of Buckhout Street and from Mathiessen Park and Scenic Hudson Park.
- (4) The potential impact of the proposed development upon the area in which it is located, and upon the Village and surrounding areas.
- (5) The adequacy of the phasing plan to ensure that the uses in each phase will be self-sufficient if future phases should be delayed or abandoned.

B. Site design standards.

- (1) Except for buildings existing on [*date of enactment of amendment*], within the first 50 feet on the west side of the site, measured from the bulkhead, no structures will be allowed. This area must be maintained for public access and as an open, landscaped area, where common walkways and landscape buffers are permitted.
- (2) In areas where there is no bulkhead, no structures shall be permitted within the first 75 feet of the mean high water line of the Hudson River.
- (3) Within the first 25 feet south of the bulkhead on the north side of the site, no structures will be allowed. This area must be maintained for public access and as an open, landscaped area, with common walkways and landscape buffers.
- (4) Within the first 25 feet north of Scenic Hudson Park, no structures will be allowed.
- (5) Notwithstanding paragraphs (1), (3), and (4), raised structures necessary for the planting of trees may be permitted in a required yard.
- (6) No part of any building or structure shall be erected to a height greater than three stories nor shall such height exceed 35 feet. The Board of Trustees may

permit height greater than 35 feet and up to four stories, but in no event greater than 45 feet, provided that:

- (a) No portion of the building in excess of 35 feet shall detract from the public's enjoyment of a view of the Hudson River from Main Street east of Buckhout Street and from Mathiessen Park and Scenic Hudson Park; and
 - (b) A public benefit is derived from the excess height in the form of additional public open space, affordable housing, or other benefit, as determined by the Board of Trustees in its sole discretion.
- (7) Suitable parking shall be provided for all existing and proposed uses. Any other parking requirements included in this chapter are specifically superseded by the regulations for the WF District. In making a determination of suitability, the Board of Trustees shall evaluate a shared parking analysis prepared by the applicant that demonstrates existing demand and utilization for parking and the feasibility of shared parking given the existing and proposed mix of land uses and the adjacency of the Irvington Train Station.
- (8) Suitable provision for loading for commercial and residential uses shall be provided that minimize the impact on public use of the streetscape. No loading docks shall be permitted directly accessible from any public or private street or right-of-way.
- (9) Public access to portions of the site shall be implemented through a right-of-way or easement for the enjoyment of the public, which easement shall be not less than nine feet in width traversing the entire length of the waterfront side of the site. To the maximum extent practicable, said right-of-way or easement shall be integrated so as to create linkages with existing and anticipated public pedestrian systems on adjacent lands and the Hudson River.
- (10) A coordinated landscape plan shall be prepared for all open spaces, walkways, access roads and parking areas. Attractively landscaped open spaces, plazas and recreational areas, designed as gathering places and intended for maximum usability by on-site users and workers, shall be provided in appropriate locations. All open spaces, pedestrian walkways, parking areas and access drives shall be planned as an integral part of the overall site design, properly relating to existing and proposed buildings.

- (11) The coordinated landscape plan shall include a mix of shade trees and other plant materials, such as ground cover and shrubs, with proper regard to factors such as micro-climate, function of area, existing plantings and required maintenance in determining the species, scale and planting pattern. Native species are preferred; however, non-native ornamental species may be considered if their hardiness to urban conditions makes them the preferred species over a similar native species.
- (12) Walkways and other surface areas of paving material shall offer a variety of pigments and textures which are in harmony with nearby buildings and other paved surfaces and are safe for pedestrian traffic, including the handicapped. Pervious surfaces shall be used wherever practicable to minimize the need for stormwater infrastructure.

C. Building Design Standards.

- (1) Buildings shall be harmonious and compatible with other buildings in the Waterfront District in terms of the following exterior design elements:
 - (a) The nature and use of surface materials. Natural building products including, but not limited to, clapboard and shingle siding, brick, or stone is preferred over synthetic materials.
 - (b) The height of cornices, lintels and sill levels, articulated floor levels and other horizontal building features.
 - (c) The spacing and proportion of columns, piers and other elements of the basic structural grid.
 - (d) The spacing and proportion of window and door openings, bays or other aspects of building fenestration.
 - (e) Colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.
 - (f) All rooftop equipment shall be screened to the maximum extent practicable from ground-level views and views from any roads or adjoining properties at a higher elevation.

- (2) The Board of Trustees shall have the authority to request revisions to prototypical designs to ensure continued consistency with the Village's character and to avoid "placeless" architecture created by repetitive or iconic design.
- (3) Building facades shall present a varied appearance at street level and be designed to give individual identity to each building and use as well as to help achieve the planned pedestrian scale. Blank wall exposure shall be limited.
- (4) Building facades shall be designed to include modulation of vertical and horizontal elements such as:
 - (a) Variation in roof heights.
 - (b) Changes in the predominant wall plane and/or in facade elements such as window openings and balconies.
 - (c) Use of horizontal projections or recesses in the building facade such as bay windows, cornices, balustrades, etc.
 - (d) Use of pitched roofs and other roof elements such as cross gables, dormer windows, turrets, and clocktowers to provide visual interest, reduce the scale of continuous roofs and break the line where the building meets the sky. Notwithstanding the definition of "height" in §224-3 of this chapter, building height shall not include decorative roof elements (such as gables, dormers, turrets, clocktowers, or mansards), provided that such decorative roof elements:
 - (i) do not exceed 15 feet in height above the main building roof;
 - (ii) do not occupy more than 20% of the total roof area of the building; and
 - (iii) do not detract from the public's enjoyment of a view of the Hudson River from Main Street east of Buckhout Street and from Mathiessen Park and Scenic Hudson Park.
- (5) Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their street frontage.

§ 224-43. Site development plan application to Planning Board.

- A. The approval of a WF Site Master Plan application by the Board of Trustees shall authorize the applicant to proceed with the detailed design and planning of individual sections of the planned development and to submit applications to the Planning Board for site development plan approval, as appropriate, and in accordance with the procedures and requirements for such applications as set forth in this chapter. All such applications must conform with the requirements of the approved WF Site Master Plan, and any findings and conditions issued in connection therewith by the Board of Trustees. Site development plan approval shall be required prior to the issuance of any permit for building, demolition, land clearance, land use, or land development within the area covered by a WF Site Master Plan or any section thereof.
- B. Although the procedural requirements for site development plan review shall be the same as those applicable to other site plan applications in the Village, in reviewing site development plan applications within the WF District, the Planning Board shall also consider the following:
1. The conformity of the application to the approvals, agreements, and conditions imposed by the Board of Trustees.
 2. Any section or sections for which the Planning Board shall grant approval or conditional approval, shall be determined to be capable of being self-supporting, sustainable, and environmentally sound, in the event that the applicant does not proceed with other sections.
 3. The dedication of land for permanent preservation and the construction of on-site and/or off-site infrastructure improvements shall be accomplished in conformance with the approved phasing plan and shall be installed so as to properly serve the proposed site development. In order to make such determination, the Planning Board may require the preparation and submission of such additional detailed plans and/or studies with respect to water supply, sewerage service, stormwater drainage, road improvements, and other utilities and services, as the Planning Board may find necessary to allow it to determine their adequacy not only to serve the individual section(s) proposed but also to be properly related to utilities and services which, in the future, will serve the WF site as a whole.

4. The conformity and progress of development in preceding sections of the WF Site Master Plan in relation to all applicable timing and sequencing requirements and conditions.

§ 224-44. Modifications and amendments to WF Site Master Plan.

- A. Amendments to an approved WF Site Master Plan shall be subject to the same requirements and procedures as the initial application for a WF Site Master Plan.
- B. Any application that deviates from the approved WF Site Master Plan must be reviewed by the Board of Trustees, which may approve a minor modification to the WF Site Master Plan without a formal amendment. Where the Board of Trustees determines, in its sole discretion, that the modification is not minor, it may require an amendment to the WF Site Master Plan.

NB: *There should be some minor amendments in the Subdivision Regulations to refer to the WF Site Master Plan.*