

ARTICLE X  
Waterfront District (WF)  
(2-16-12)

**§ 224-39. Use regulations.**

- A. Permitted principal uses. 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) Retail stores not exceeding 5,000 square feet of floor area per individual store.
  - (2) Banks.
  - (3) Personal service stores, such as but not limited to barbershops, beauty parlors and tailors.
  - (4) Hotels.
  - (5) Service establishments furnishing services other than of a personal service nature, but not including automobile service.
  - (6) Business, administrative or professional offices.
  - (7) Theaters and restaurants.
  - (8) Fitness clubs.
  - (9) Indoor recreation facilities.
  - (10) Outlets and pickup stations for laundries and cleaning establishments, excluding on site washing or cleaning of wearing apparel or household effects.
  - (11) Nursery schools, adult and child day care centers.
  - (12) Instruction schools for boating, sailing, and other water sports.
  - (13) Dance, music and fitness studios, in either classes or individual instruction format.
  - (14) Art dealers.
  - (15) Museums.

- (16) Boat or yacht clubs and other water recreation facilities.
- (17) *Facilities for building, storing, repairing, selling or servicing boats.*
- (18) Marina facilities, including water taxis.
- (19) Farmers' market.
- (20) 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.

B. Special permit uses. The Village Board of Trustees may permit any of the following uses upon the grant of a Special Permit by the Board of Trustees in accordance with the procedures specified in § 224-8F of this chapter, provided that the use meets all other requirements of this Article.

- (1) Dwelling units, including dwelling units above the first floor over uses permitted under subsection A of this section, provided that the following additional requirements are also met:

- (a) All habitable space within such dwelling units shall be located only above the one hundred-year floodplain.
- (b) The gross floor area of all dwelling units shall not exceed 10% of the total gross floor area of all buildings and structures within the Waterfront District, except that the Board of Trustees, in its sole discretion:

[1] may permit additional floor area for dwelling units, but not more than an additional 5%, if at least 50% of the additional floor area is for dwelling units meeting the Westchester County requirements for affordable housing; and

[2] may permit additional floor area for dwelling units, but not more than an additional 10%, if the applicant dedicates an easement to the Village for public access to the waterfront, which easement shall be not less than ~~nine~~ 12 feet in width running along the entire length of the bulkhead of the parcel on which the dwelling units are proposed to be located. **[Stu Turner thought this should be the**

**minimum, and is consistent with what other riverfront municipalities have been requiring.]**

- (c) A traffic impact study and parking analysis must demonstrate:
  - (i) that potential traffic generation ~~shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access,~~ *from the proposal, along with any other approved projects or projects under review by the Village, will not result in a decline in the level of service of more than one level, but in no event below level of service D, for any area intersections during peak weekday morning, evening and weekend hours; and*
  - (ii) that traffic circulation and exit and entrance drives are laid out to minimize traffic hazards and nuisances; and
  - (iii) that parking and loading demand for existing and proposed uses can reasonably be ~~handled~~ *accommodated* within the site.
  
- (2) Retail stores greater than 5,000 square feet of floor area, *but in no event greater than 40,000 square feet*, provided that the following additional requirements are also met: **[Turner thought this would eliminate most of the big box stores, but would be large enough to permit a boat store.]**
  - (a) 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.
  
  - (b) A traffic impact study and parking analysis must demonstrate:
    - [1] that potential traffic generation ~~shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access,~~ *from the proposal, along with any other approved projects or projects under review by the Village, will not result in a decline in the level of service of more than one level, but in no event below level of service D, for any area intersections during peak weekday morning, evening and weekend hours; and*
  
    - [2] that traffic circulation and exit and entrance drives are laid out to minimize traffic hazards and nuisances; and
  
    - [3] that parking and loading demand for existing and proposed uses

can reasonably be ~~handled~~ *accommodated* within the site.

- (3) Research, design, and development facilities, provided that the following additional requirements are also met:
- (a) All activities shall be carried on within fully enclosed buildings.
  - (b) None of the following shall be permitted:
    - [1] Chemical plants.
    - [2] Motor-testing laboratories.
    - [3] Facilities using explosives.
  - (c) ~~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~~ **[These are already banned by section 224-39(E).]** No waste products shall be discharged therefrom of a character to create a nuisance or hazard to public health and safety.
  - (d) No radioactive materials shall be kept or used on the premises.
  - (e) 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.
  - (f) A traffic impact study and parking analysis must demonstrate:
    - [1] ~~that potential traffic generation shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access, from the proposal, along with any other approved projects or projects under review by the Village, will not result in a decline in the level of service of more than one level, but in no event below level of service D, for any area intersections during peak weekday morning, evening and weekend hours; and~~
    - [2] that traffic circulation and exit and entrance drives are laid out to minimize traffic hazards and nuisances; and
    - [3] that parking and loading demand for existing and proposed uses can reasonably be ~~handled~~ *accommodated* within the site.

- C. Accessory uses. Only the following accessory uses shall be permitted:
  - (1) Accessory buildings and accessory uses customarily incidental to a permitted use.
  - (2) Signs, awnings and canopies accessory to a permitted use, provided that they comply with the conditions and procedures in Article IX, Business District.
  
- D. Existing uses. Businesses not included in subsections A through C of this section but 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.
  
- E. The following uses shall be prohibited regardless of their inclusion as a permitted use in this section:
  - (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 curb or drive-through service.

**§ 224-40. Coverage.**

No building shall be erected or enlarged in which the aggregate floor area, exclusive of cellar and basement areas used only for storage or for the operation and maintenance of the building, shall exceed 1.4 times the area of the *dry-land area of the lot (calculated from the bulkhead or mean high water line)*. The sum of all areas covered by all buildings, driveways and parking areas shall not exceed 70% of the area of the *dry-land area of the lot, calculated from the bulkhead or mean high water line)*.

**§ 224-41. Yard requirements; perimeter buffers.**

- A. Yards.
  - 1. *Except for buildings, driveways or parking areas existing on [date of enactment*

*of amendment], a 10 foot front yard shall be required along West Main Street. Trees, sidewalks, and other landscaping authorized by the Planning Board may be placed in this yard.*

2. Except as provided in this section, no yards are required, but, if provided, any yard shall be at least ~~four~~ six feet wide. **[Turner thought six feet was better.]**

B. Perimeter buffers.

- (1) On the west side of the Waterfront District:

- (a) Within the first 28 feet east of the Hudson River, measured from the bulkhead, no buildings, driveways or parking areas will be allowed except for buildings, driveways or parking areas existing on *[date of enactment of amendment]*. Except as required for access for emergency equipment, this area must be maintained as an open, landscaped area.

- (b) In areas where there is no bulkhead, within the first 28 feet of the mean high water line of the Hudson River, no ~~structures~~ *buildings, driveways or parking areas will be allowed except for: (i) buildings driveways or parking areas existing on [date of enactment of amendment] and (ii), except these structures* intended exclusively for the storage of water craft, paddles, and/or floatation devices.

- (2) *On the north side of the Waterfront District:*

- (a) Within the first 15 feet south of the bulkhead, no buildings, driveways or parking areas will be allowed except for buildings, driveways or parking areas existing on *[date of enactment of amendment]*. Except as required for access for emergency equipment, this area must be maintained as an open, landscaped area.

- (b) *Within the first 15 feet south of the northern border of the Waterfront District, west of the bulkhead, no buildings, driveways or parking areas will be allowed except for buildings, driveways or parking areas existing on [date of enactment of amendment]. Except as required for access for emergency equipment, this area must be maintained as an open, landscaped area.*

- (3) Within the first 28 feet north of Scenic Hudson Park, no buildings, driveways or parking areas will be allowed, except for driveways or parking areas existing on *[date of enactment of amendment]*. Except as required for access for emergency equipment, this area must be maintained as an open, landscaped area.

- (4) Notwithstanding paragraphs (1), (2), and (3), raised structures necessary for the planting of trees may be permitted in a required buffer.

**§ 224-42. Height of buildings.**

- A. No part of any building or structure shall be erected to a height greater than three stories and basement at any point along the periphery of such building, nor shall such height exceed 35 feet.
- B. *Notwithstanding paragraph A of this section, the Board of Trustees, in its sole discretion, may permit height greater than 35 feet and up to four stories, but in no event greater than 40 feet, provided that:*
  - (1) *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 neighboring properties, adjacent public property and rights-of-way, Main Street, Matthiessen Park and Scenic Hudson Park; and*
  - (2) *A public benefit is derived from the excess height in the form of public access to the waterfront, affordable housing, or other benefit, as determined by the Board of Trustees.*

**§ 224-43. View preservation regulations.** *In applying § 224-151 to any construction in the Waterfront District, the Planning Board shall take into consideration the view of the Hudson River from Main Street east of Buckhout Street and from Matthiessen Park and Scenic Hudson Park, in addition to the view from other neighboring properties and adjacent public property and rights-of-way.*

**§ 224-44. Off-street parking.**

- A. *Required number of spaces.* On-site parking spaces shall be provided as follows, in addition, if applicable, to the requirements of § 224-55:
  - (1) *One space per 350 square feet for museums.*
  - (2) *One space per 300 square feet for banks, retail stores, personal service stores, service establishments, offices except medical or dental offices, laundry and dry cleaning establishments, art dealers.*

- (3) *One space per 250 square feet for fitness clubs, dance, music and fitness studios.*
- (4) *One space per 150 square feet for medical and dental offices.*
- (5) *One space for every three seats for restaurants.*
- (6) *One (1.2) space per room for hotels.*
- (7) *One space for every three seats for theaters.*
- (8) *Dwelling units:*
  - (a) *One space per one-bedroom dwelling unit.*
  - (b) *One and one-half spaces per two-bedroom dwelling unit.*
  - (c) *Two spaces per three-or-more bedroom dwelling unit.*

**[Dwelling unit requirement is from Irvington regulations for Business District. Other requirements are from a combination of model parking regulations suggested in Revitalizing Hudson Riverfronts and discussions between Stu Turner and me.]**

- (9) *Parking requirements for other uses or variations of the above uses shall be determined by the Planning Board. In making its determination, the Planning Board shall take into consideration the following factors: the nature of the use; the number of persons for whose use the facility is designed or intended; the hours of operation proposed; the likelihood, nature and frequency of special events utilizing the facilities and to which either the general public or large numbers of people might be invited or encouraged to attend; and other permitted uses for which the facility or structure is designed and to which it might be put if the designated activity should cease as the principal use.*
- (10) *Where two or more uses occur on a single lot or contiguous lots, the total number of parking spaces to be provided shall be the sum of the requirements for each use.*
- (11) *Whenever the calculation produces a fractional parking space, a full parking space shall be provided. [From Irvington regulations for Business District.]*

B. *Reduction in number of parking spaces.* The number of parking spaces required in the previous subsection may be reduced as follows:

- (1) *Available street parking.* The parking requirement may be reduced by one space for each 24 feet of curb space, where street parking is permitted, along the

frontage of the lot.

~~(2) The parking requirement for dwelling units shall be reduced by 15%.~~

**[These two provisions come from Irvington Code regulations for Business District.]**

- (2) *Mass transportation credit.* The parking requirement may be reduced by the Planning Board if it determines that a parking demand study, provided by the applicant and prepared by an independent licensed traffic engineer or other planning professional acceptable to the Planning Board, justifies the reduction on the basis of documented mass transportation use of the patrons and employees of the use.
- (3) *Shuttle service.* The Planning Board may reduce the number of parking spaces if the applicant provides a regularly scheduled shuttle bus service between the use and an offsite parking facility and demonstrates the expected usage of the shuttle service.
- (4) *Shared parking.* The Planning Board may approve the joint use of parking spaces by two or more different uses on a single lot or contiguous lots, provided that the total number of spaces is not more than one-third less than the sum of the total spaces required, and provided that the following requirements are met:
  - (a) The Planning Board finds, on the basis of a parking demand study provided by the applicant and prepared by an independent licensed traffic engineer or other planning professional acceptable to the Planning Board, that the number of parking spaces provided will substantially meet the anticipated parking demand by reason of variation in the probable time of peak parking by patrons, employees, visitors and other occupants among such different uses.
  - (b) If more than one lot is involved, the Planning Board shall require, as a condition of its approval, a legal instrument or other document satisfactory to the Village, in form and substance, assuring the continued use of joint parking facilities in connection with the uses they serve.
  - (c) Approval of such parking reduction and joint use of parking facilities shall automatically terminate upon a change of use *in one or more of the uses if such change is to a use that requires more parking spaces under this section, but if a change is to a use that does not require more parking spaces, the approval shall continue, provided that the legal instrument or other document governing the shared use is amended, to the satisfaction of the Village, to identify the new owners and/or operators of the different uses.*

- (5) *Substitution of equivalent parking. The Planning Board may permit the substitution of equivalent off-street parking spaces on another lot, provided that:*
- (a) *The entrance to the substituted parking area is not over 750 feet by normal pedestrian travel from the building or use to which such off-street parking space is to be appurtenant;*
  - (b) *No point of the substituted parking area is greater than 750 feet from the building or use to which it is to be appurtenant;*
  - (c) *The parking area is permitted in the district in which it is located;*
  - (d) *Such spaces may not thereafter be used for any other purpose; and*
  - (e) *A legal instrument, satisfactory to the Village Attorney, guaranteeing such continued use is furnished to the Village.*

**[I came up with these reductions, which Stu Turner thought should work.]**

- C. Existing buildings and uses. Buildings and uses in existence on *[date of enactment of this law]* shall not be subject to the parking requirements set forth in this section. However, any parking spaces now existing to serve such structures or uses shall not be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements.
- D. Enlargement of building or use, or change of use.
- (1) Enlargement of building or use. Upon change or enlargement of a building that creates an increase in floor area, additional floor area devoted to a use, or additional dwelling units or bedrooms, additional parking spaces shall be provided for such new floor area, dwelling unit, or bedroom, without diminishing the existing parking provided for the existing uses unless ~~said~~ existing parking exceeds the requirements of this section.
  - (2) Change of use. When a use or building or part of a building changes to a use that is required by this section to have the same number of parking spaces as the immediately previous use, no additional parking spaces shall be required for the new use, regardless of the number of spaces actually provided by the previous use, provided that the previous use was legally established and the number of spaces has not decreased. When a change in use requires more off-street parking than

the previous use, additional parking spaces shall be provided equal in number to the difference between the total number of spaces required by the new use and the number of spaces required for the immediately previous use. When a change in use requires less off-street parking than the previous one, no additional parking spaces are required.

**The current Industrial District parking requirement is: one parking space for each 500 sq. ft. on the first floor and at least one parking space for each 375 sq. ft. on any higher floor. I do not believe the current uses at BSP would meet these new parking requirements.**

**The following additional amendments will also have to be enacted:**

Amend section 224-78 (Resource Protection: Applicability) to read as follows:

The provisions of this article shall apply to all land in the Village of Irvington except land in the ~~Industrial~~ *Waterfront* District.

Amend section 188-15 (Subdivision: General Requirements) by adding a new paragraph:

- D. Subdivision of any property in the Waterfront District shall require an easement permitting access to the waterfront. **[I have to come up with precise language.]**

Amend the Zoning Code and Building Construction provisions of the Code to reflect that special permits are to be issued by Board of Trustees (rather than Planning Board). **[I will write up these amendments later, once we have agreed to the basic amendment.]**