TOWN OF MILO, NEW YORK

Office of Development Services
137 Main Street
Penn Yan, New York 14527
Phone: (315) 531-8042
Fax: (315) 536-9760
Email: codeofficer@townofmilo.com
Website: www.townofmilo.com

Monday, January 12, 2026

Town Board of the Town of Milo, New York
137 Main Street
Penn Yan, New York 14527

Reference: 2026 Amendments to the Zoning Law

To the members of the Town Board:

The Code Enforcement Officer of the Town of Milo respectfully submits the attached 2026 amendments to the Zoning Law of the Town of Milo for your review and approval. These amendments were deemed necessary for the following reasons:

- To address development matters that were not adequately addressed in this law; and
- Amended and provide definitions that clarifies that improves the reader's understanding of the intent of this law and its standards. Furthermore, numerous definitions were amended or added to reference definitions prescribed within applicable state law to avoid confusion; and
- To add or amend procedural requirements pertaining to development review and/or approvals required by this law.

Furthermore, the color code for the amendments are as follows:

~~EXAMPLE~~ - this color code designates items that shall be deleted from this law.

EXAMPLE - this color code designates items that were added to this law.

Lastly, amendments to the Animals Law of the Town of Milo were also submitted for your review and approval. Both amendments need to be approved simultaneously in order for these laws to function in unison.

Thank you for your time and consideration.

Be well and safe.

Very respectfully,

Anthony Validzic
Code Enforcement Officer

2026
DRAFT AMENDMENTS
CHAPTER 350
ZONING LAW

TOWN OF MILO, NEW YORK
137 Main Street
Penn Yan, New York 14527
Phone: (315) 536-8911
Fax: (315) 536-9760
Website: www.townofmilo.com

Reviewed by:

1. Town Attorney: August 1, 2024
2. Zoning Committee: August 13, 2024 & November 12, 2025
3. Legislative Advisory Committee: September 6, 2024 & November 12, 2025
4. Town Board:

Chapter 350

ZONING

ARTICLE VI

Standards applicable to specific lands, structures and/or uses

Part 1 General Provisions

ARTICLE I
General Requirements

§ 350-1. Title.

This chapter shall be known as the "Zoning Law of the Town of Milo," hereinafter referred to as "this chapter."

§ 350-2. Purpose.

The purpose of this chapter is, but shall not be limited to, promoting the health, safety and general welfare by guiding the development of the Town by means of the Comprehensive Plan which is, in part, carried out by the provisions of this chapter. It is further intended to provide regulations and standards that will preserve the rural character of Town and provide direction for orderly growth and development, together with flexibility to respond to changing socioeconomic circumstances. Lastly, it is one of the prime goals of the Town that the provisions of this chapter shall be construed, enforced and interpreted in such a manner as it will not cause a prohibited infringement upon the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights as prescribed by law.

§ 350-3. Applicability; exemptions.

The provisions of this chapter shall apply to all land, structures and/or uses that are located within the Town of Milo, which are outside of the Village of Penn Yan. Exemption(s):

A. Building and/or construction methods. This chapter shall not abrogate or restrict building and/or construction methods that are prescribed by the Energy Code, Uniform Code and/or any other applicable law. For example, a single-unit dwelling can be built using post-and-beam framing method (AKA "pole barn framing") in lieu of a platform framing method, which the latter is the most common type of framing method.

   Exception(s):

   (1) More restrictive local standards. This chapter may require more restrictive building and/or construction methods and/or standards that are prescribed within by the Energy Code and Uniform Code only if such more restrictive local standard has been approved in accordance with § 379 of the Executive Law of NYS, as currently in effect and as hereafter amended from time to time.

B. Essential public services. This chapter shall not abrogate or restrict the erection, construction, alteration, or maintenance of essential public services.

C. Family or group family day care home. This chapter shall not abrogate or restrict the use of a dwelling unit as a family day care home and group family day care home that is licensed and regulated by NYS Office of Children and Family Services, hereinafter referred to as OCFS.

D. Farm worker housing unit. This chapter shall not abrogate or restrict the erection, construction, alteration or maintenance of farm worker housing units.

E. Government actions. This chapter shall not abrogate or restrict government actions that are exempt from zoning regulations pursuant to law.

F. Lands and/or uses operated, owned and/or regulated by Yates County, NYS and/or federal government. This chapter shall not abrogate or restrict lands and/or uses operated, owned and/or regulated by Yates County, NYS or federal government that are exempt from zoning regulations pursuant to law.

G. Maintenance and repairs. This chapter shall not abrogate or restrict the maintenance and/or repairs of existing land or structures, if such work does not result in any change of use, change in location or dimensional modification of

such land or structure.

H. Major electric generating facility. This chapter shall not abrogate or restrict the erection, construction, alteration or maintenance of major electric generating facilities that are governed by Article 10 of the Public Service Law of NYS, as currently in effect and as hereafter amended from time to time.

I. Major renewable energy system. This chapter shall not abrogate or restrict the erection, construction, alteration or maintenance of major renewable energy systems that are governed by Section 94-C of the Executive Law of NYS, as currently in effect and as hereafter amended from time to time.

J. Mining. This chapter shall not abrogate or restrict how mining operations are conducted, which the AHJ is the NYSDEC pursuant to Article 23 of the Environmental Conservation Law of NYS, as currently in effect and as hereafter amended from time to time.

K. Right to farm. This chapter shall not abrogate or restrict any agricultural practice determined to be a "sound agricultural practice" by the NYS Commissioner of Agriculture and Markets pursuant to Article 25-AA of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time, at any lot of record located partially or wholly in an NYS-certified agricultural district.

L. Subsurface rights. This chapter shall not abrogate or restrict any subsurface rights acquired by deed or lease, but all surface or above-surface operations and structures in conjunction therewith shall be subject to the regulations established in this chapter.

M. Vested rights. This chapter shall not abrogate or restrict any vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation, protection or promotion of the public health, safety and general welfare.

§ 350-4. Relationship to Comprehensive Plan.

It is the intention of the Town that this chapter, including any subsequent amendments hereto, shall implement the recommendations described within the Comprehensive Plan, as may be amended from time to time.

§ 350-5. Authority.

This chapter is adopted under the grant of power as set forth in Article 2 of the Municipal Home Rule Law of NYS, as currently in effect and as hereafter amended from time to time.

§ 350-5.1 Due process.

A. General. Nothing in this chapter shall be construed as authorizing any authority having jurisdiction responsible for the administration and enforcement of this chapter to do so in a manner that deprives any person or entity of due process of law.

ARTICLE II
Terminology

§ 350-6. General.

A. Scope. Unless otherwise expressly stated, the following abbreviations, acronyms and definitions shall, for the purpose of this chapter, have the meanings shown in this chapter.

B. Interchangeability. Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

C. Terms defined in other codes. Where the terms are not defined in this chapter and are defined in local, state or federal law, such terms shall have the meanings ascribed to them as in such law.

D. Terms not defined. Where terms are not defined by the methods authorized by this chapter, such terms shall have the ordinarily accepted meanings such as the context applies.

§ 350-7. Abbreviations and acronyms.

Abbreviation/Acronym	Term
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act[2]
AG	Agriculture Zoning District of the Town of Milo
AHJ	Authority having jurisdiction
ANSI	American National Standards Institute
AR	Agricultural Residential Zoning District of the Town of Milo
ASTM	American Society for Testing and Materials
ATF	United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives
CEO	Code Enforcement Officer
CFR	Code of Federal Regulations
CO	Commercial Zoning District of the Town of Milo
EAF	New York State environmental assessment form
EPA	United States Environmental Protection Agency
FAA	United States Federal Aviation Administration
FCC	Unites States Federal Communications Commission

Abbreviation/Acronym	Term
FDA	United States Food and Drug Administration
HA	Hamlet Zoning District of the Town of Milo
HUD	United States Department of Housing and Urban Development
HVAC	Heating, ventilation and air conditioning
IESNA	Illuminating Engineering Society of North America
ITE	Institute of Transportation Engineers
LCOM	Lakefront Commercial Zoning District of the Town of Milo
LI	Light Industrial Zoning District of the Town of Milo
LREC	Lakefront Recreational Zoning District of the Town of Milo
LRES	Lakefront Residential Zoning District of the Town of Milo
MHWL	Mean high-water line
NATE	National Association of Tower Erectors
NEC	National Electrical Code
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
NRA	National Rifle Association
NRC	Unites States Nuclear Regulatory Commission
NRCS	United States Natural Resources Conservation Service
NYS	New York State
NYCRR	New York Codes, Rules and Regulations
NYSDAM	New York State Department of Agriculture and Markets
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOT	New York State Department of Transportation
NYSED	New York State Department of Education
NYSERDA	New York State Energy Research and Development Authority

Abbreviation/Acronym	Term
NYSOFA	New York State Office of the Aging
NYSOPRHP	New York State Office of Parks, Recreation and Historic Preservation
OCFS	New York State Office of Children and Family Services
OSHA	United States Occupational Safety and Health Administration
SEQRA	New York State Environmental Quality Review Act
UL	Underwriters Laboratories
USDA	United States Department of Agriculture
WECS	Wind energy conversion system
YCSWCD	Yates County Soil and Water Conservation District

§ 350-8. General definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED AND VACANT PREMISES – Any premises where the Code Enforcement Officer or his/her/their designated representative has conducted at least three (3) inspections of such premises, with each inspection conducted twenty-five (25) to thirty-five (35) days apart and at different times of the day, and at each inspection the following was determined:

A. No occupant was present and there was no evidence of occupancy on the premises to indicate that any persons are residing there; and

B. The premises is not maintained in a manner consistent with the standards set forth in the Property Maintenance Code of NYS.

For clarification purposes, evidence of lack of occupancy shall include but not limited to the following conditions:

- Overgrown or dead vegetation.
- Accumulation of newspapers, circulars, flyers and/or mail.
- Past due utility notices, disconnected utilities, or utilities not in use.
- Accumulation of garbage, rubbish and/or other debris.
- Absence of window coverings, such as curtains, blindes or shutters.
- One or more boarded, missing or broken windows.
- The premises is open to casual entry or trespass.
- The premises has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons.

ACCESSORY DRIVEWAY STRUCTURE — Any decorative or functional elements placed on or adjacent to a driveway, including but not limited to fencing, gates, gatehouses, gateposts or pillars.

ADULT ENTERTAINMENT ESTABLISHMENT — Shall be defined and regulated by the Adult Entertainment Establishment Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.[3]

AERONAUTICAL RELATED USE — A use that provides aeronautical infrastructure and services. Examples are, but shall not be limited to, aircraft repair facilities, aircraft hangers, aircraft fueling facilities, flight instruction and air chartering.

AGENT — A person who shall have charge, care or control of any land, structure, work and/or use on behalf of the

owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as if that person was the owner.

AGRICULTURAL ADVISORY COMMITTEE – Shall bear the same meaning as "Agricultural Advisory Committee" as created and prescribed by the Farming Law of the Town, as currently in effect and as hereafter amended from time to time.

~~AGRICULTURAL BUILDING — A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.~~

AGRICULTURAL BUILDING – Shall bear the same meaning as "agricultural building" that is defined in the Uniform Code.

AGRICULTURAL BUSINESS — Any individual, partnership, corporation, limited liability company, organization or business entity primarily supplying marketable agricultural products, including but not limited to breweries, farm cooperatives, farm machinery repair and sales, farm markets, seed processing and supply, and wineries that are not otherwise specifically defined as a "farm operation" by the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time. Furthermore, the designated approval authority is authorized to seek an interpretation by the Agricultural Advisory Committee if he/she/they are uncertain if a proposed use fits this definition.

AGRICULTURAL FAIRGROUND — Shall bear the same meaning as "agricultural fairground" that is defined in Part 7, Subpart 7-5, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

AGRICULTURAL SERVICE USE — Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; bulk storage and/or processing facility for fruits, vegetables and other agricultural products or a similar use directly and customarily related to the supply and service of a farm operation. Furthermore, the designated approval authority is authorized to seek an interpretation by the Agricultural Advisory Committee if he/she/they are uncertain if a proposed use fits this definition.

AGRICULTURAL TOURISM — Shall bear the same meaning as "agricultural tourism" that is defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

AIRPORT —

A. An area of land or water used or intended to be used for the landing and taking off of aircraft; and

B. An appurtenant area used or intended to be used for airport buildings or other airport facilities or rights-of-way; and

C. Airport buildings and facilities located in any of those areas; and

D. Includes a heliport.

AIRPORT, COUNTY — An airport owned and operated by the county.

ALL-WEATHER DRIVING SURFACE — A surface capable of allowing vehicle access during any weather condition, including packed gravel, seal-coated asphalt, asphalt, concrete or similar material.

AMATEUR RADIO COMMUNICATIONS TOWER — A structure or a series of structures, attached to or detached from a principal building or accessory structure, which are used in the transmission of amateur radio communications, which shall include any antennas or other appurtenances (e.g., guy wires).

ANCILLARY FARM ENTERPRISE – A light commercial and/or light industrial use as well as motor vehicle repair station that provides supplemental income to the owner of a farm operation. Additionally, this use shall be subordinate to a farm operation and the applicable lot shall have obtained a NYS agricultural assessment by the Town Assessor and be located within a NYS certified agricultural district.

APPEAL — Shall bear the same meaning as "appeal" that is defined in § 267-a of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

APPLICANT — An owner submitting an application to permit development and/or a type of use at his/ her/their lot of record in order to obtain a determination by the designated approval authority.

APPROVED — Acceptable to an AHJ.

AREA, BUILDING — Shall bear the same meaning as "building area" that is defined in the Uniform Code.

~~ATTIC — The space between the ceiling beams of the top story and the roof rafters.~~

ATTIC – Shall bear the same meaning as “attic” that is defined in the Uniform Code.

AUTHORITY HAVING JURISDICTION (AHJ) — An agency, board, department, organization, office or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, project or a procedure.

BED-AND-BREAKFAST DWELLING — Shall bear the same meaning as "bed-and-breakfast dwelling" that is defined in the Uniform Code.

BLIGHTED PREMISES – Any premises, including exterior property, in whole or partially, whether occupied / unoccupied or improved / vacant, in which at least one (1) of the following conditions exists:

A. The premises is an “abandoned and vacant premises” as determined by the Code Enforcement Officer.

B. The premises has/have been cited for property maintenance violations as determined by the Code Enforcement Officer and said violations have not been corrected in an approved and workmanlike manner.

C. The premises has/have been chronically cited for property maintenance violations as determined by the Code Enforcement Officer. For clarification purposes, “chronically cited” shall include but not limited to any of the following:

(1) A lot of record with a past history of property maintenance violations.

(2) A lot of record that is/was the subject of a notice of violation in which property maintenance violations have not been corrected within prescribed time frames.

D. The premises is an imminent danger as determined by the Code Enforcement Officer.

E. The premises contain an unsafe structure as determined by the Code Enforcement Officer.

F. The premises contain a structure unfit for human occupancy as determined by the Code Enforcement Officer.

BLIGHTED PREMISES, PERSISTENT – A blighted premises that has been on the blighted property inventory list for two (2) years or more.

BLIGHTED PROPERTY INVENTORY LIST – A list containing lot(s) of record within this town, outside the village, which are blighted premises.

BOARDING HOUSE – Shall bear the same meaning as “boarding house” that is defined in the Uniform Code. For the purpose of this chapter, a boarding house shall be classified as either a hotel or motel, which such classification is dependent upon the location of the door to a sleeping unit, for transient occupancy and as a multiple-unit dwelling where occupants are primary permanent in nature.

BOARDING HOME FOR SHELTERED CARE — A single-unit dwelling for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. Such home shall be under the custody, licensure, supervision or jurisdiction of an agency or department of NYS and shall comply with the established laws or regulations of that agency or department.

For the purposes of this chapter, a boarding home for sheltered care shall be classified as a single-unit dwelling.

~~BOARDINGHOUSE, LODGING HOUSE or ROOMING HOUSE — A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-unit dwelling. For the purposes of this chapter, a boardinghouse shall be classified as either a hotel or motel, which such classification is dependent of the location of the door to a sleeping unit, for transient occupancy and as a multiple-unit dwelling where occupants are primarily permanent in nature.~~

BUFFER — Landscaped areas, fences, walls, berms or any combination thereof used to physically and visually separate one use or lot of record from another in order to mitigate significant adverse impacts, such as but not limited to light and noise. Lastly, a buffer required to be installed by this chapter shall have a minimum width of 10 feet and a maximum height of six feet for man-made elements (e.g., fences, walls, etc.) and soft landscaping shall be at least four feet at the time of planting and at least six feet within three years from the date of initial planting.

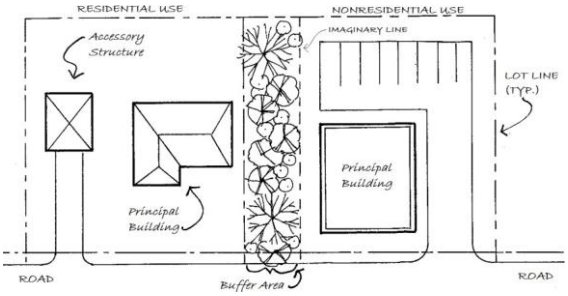


Figure 350-1: Example of a Buffer

~~BUILDING — Any structure utilized or intended for supporting or sheltering any occupancy.~~

BUILDING – Shall bear the same meaning as "building" that is defined in the Uniform Code.

BUILDING CODE – The Building Code of NYS, as currently in effect and as hereafter amended from time to time.

BUILDING COVERAGE — The ratio of the total footprint area of all structures, whether defined as an accessory structure or principal building, on a lot of record to the area of such lot, which shall be expressed as a percentage.

BUILDING ELEVATION — The entire side of a structure, from ground level to the roofline, as viewed perpendicular to the walls on that side of the structure.

BUILDING ENVELOPE — The three-dimensional space within which a structure is permitted to be built on a lot of record.

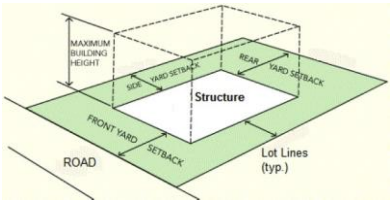


Figure 350-2: Building Envelope

~~BUILDING LINE — A line formed by the intersection of a horizontal plane and a vertical plane that coincides with the exterior surface of a structure on any side. Except for permitted projections into yards as prescribed by this chapter, the vertical plane will coincide with the most projected surface of such structure. All yard requirements are measured to the building line.~~

BUILDING LINE – Shall bear the same meaning as "building line" that is defined in the Uniform Code.

BUILDING, PRINCIPAL — A building that is occupied by the principal use of the lot of record on which it is located.

BULK FUEL STORAGE FACILITY — An aboveground installation for the storage, handling and selling of flammable fuels

and from which fuels are sold at wholesale or distributed to retail stations. For clarification purposes, any fuel storage tank (e.g., propane) used for private use shall be considered an incidental accessory use to the principal use (e.g., fuel storage tanks for dwellings, greenhouses, milk parlors, etc.).

Figure 350-3: Bulk Fuel Storage Facility

BULK REGULATIONS — Zoning Ordinance restrictions to provide a combination of controls (e.g., lot size, building coverage, building height, yards, etc.) for the orderly development at a lot of record, which are aimed at providing land and/or structures with, but not limited to, sufficient access, air, fire protection, light and open space.

CAMP, CHILDREN'S OVERNIGHT — Shall bear the same meaning as "children's overnight camp" that is defined in 10 NYCRR, Chapter I, Part 7, Subpart 7-2, Section 7-2.2 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

CAMP, SUMMER DAY — Shall bear the same meaning as "summer day camp" that is defined in 10 NYCRR, Chapter I, Part 7, Subpart 7-2, Section 7-2.2 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

~~CAMPGROUND — Any parcel or tract of land, including buildings or other structures, under the control of any person, where three or more campsites are available for temporary or seasonal overnight occupancy.~~

CAMPGROUND – Shall bear the same meaning as “campground” that is defined in 10 NYCRR, Chapter I, Part 7, subpart 7-3, Section 7-3.1 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

CAMPGROUND, FAMILY OCCUPIED – A campground where four (4) or less campsites are available for seasonal / temporary overnight occupancy by the owner as well as the immediate and/or related family of the owner. No campsite shall be for rent or any other form of compensation.

~~CANNABIS — All parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For the purpose of this definition, "cannabis" does not mean "hemp" as defined by Article 29 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.~~

CANNABIS – Shall bear the same meaning as “cannabis” that is defined in the Cannabis Law of NYS, as currently in effect and as hereafter amended from time to time.

~~CANNABIS PRODUCT — Any cannabis, concentrated cannabis, or cannabis-infused or extracted products, or products which otherwise contain or are derived from cannabis, and which have been authorized for distribution to and for use by a cannabis consumer as determined by NYS.~~

CANNABIS PRODUCT – Shall bear the same meaning as “cannabis product” that is defined in the Cannabis Law of NYS, as currently in effect and as hereafter amended from time to time.

~~CANNABIS RETAIL DISPENSARY — A business licensed by NYS that may purchase adult-use cannabis products, from adult-use cannabis cultivators, processors or distributors, and that may sell approved adult-use cannabis products, in a retail outlet, in accordance with regulations determined by NYS.~~

CANNABIS RETAIL DISPENSARY – A commercial use licensed by NYS to conduct retail sales of cannabis products.

CARETAKER QUARTERS — A dwelling unit occupied by an individual or group of individuals who is/ are responsible for maintenance and/or security of a land, structure and/or use. This individual shall be the owner or an employee of the owner.

CEMETERY — Land used for the burial of the dead and any cemetery-related structures located thereon are dedicated for such purpose, which shall include but is not limited to columbaria, crematories and/or mausoleums.

CERTIFICATE OF ZONING COMPLIANCE — A certificate issued by the Code Enforcement Officer certifying that a land, structure or use of a land or structure is in compliance with all requirements of this chapter in existence as of the date of the issuance of such certificate.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CHILD DAY CARE — Shall bear the same meaning as "child day care" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(a), as currently in effect and as hereafter amended from time to time.

CHILD DAY CARE ESTABLISHMENT — An establishment whose primary use is child day care and is regulated and licensed by OCFS. Such term shall be categorized into the following:

A. CHILD DAY-CARE CENTER — Shall bear the same meaning as "child day-care center" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(b)(1), as currently in effect and as hereafter amended from time to time.

B. FAMILY DAY CARE HOME — Shall bear the same meaning as "family day care home" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(b)(2), as currently in effect and as hereafter amended from time to time.

C. GROUP FAMILY DAY CARE HOME — Shall bear the same meaning as "group family day care home" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(b)(3), as currently in effect and as hereafter amended from time to time.

D. SCHOOL-AGE CHILD CARE PROGRAM — Shall bear the same meaning as "school-age child care program" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(b)(4), as currently in effect and as hereafter amended from time to time.

E. SMALL DAY-CARE CENTER — Shall bear the same meaning as "small day-care center" that is defined in 18 NYCRR, Chapter II, Subchapter C, Article 2, Part 413, Section 413.2(b)(5), as currently in effect and as hereafter amended from time to time.

CODE ENFORCEMENT OFFICER — The municipal officer or other authority designated by the Town Board who is charged with the administration and enforcement of this chapter or any other applicable law.

COMMERCIAL DOG BOARDING – Shall bear the same meaning as “commercial dog boarding” as defined in the Animals Law of the Town, as currently in effect and as amended from time to time.

COMMERCIAL DOG BOARDING, LICENSED – A commercial dog boarding use that is licensed by a regulatory agency.

COMMERCIAL DOG BOARDING, UNLICENSED – A commercial dog boarding use that is not licensed by a regulatory agency.

COMMERCIAL DOG BREEDING – Shall bear the same meaning as “commercial dog breeding” as defined in the Animals Law of the Town, as currently in effect and as amended from time to time.

COMMERCIAL DOG BREEDING, LICENSED – A commercial dog breeding use that is licensed by a regulatory agency.

COMMERCIAL DOG BREEDING, UNLICENSED – A commercial dog breeding use that is not licensed by a regulatory agency.

COMMERCIAL USE — Any activity that sells, offers for sale, or does or offers to exchange for any form of consideration, goods and/or services, regardless if the activity is for profit or not.

COMMERCIAL, HEAVY — A commercial use that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical establishments or businesses in this definition are, but shall not be limited to, bulk fuel storage facilities, contractor's storage yards, lumberyards, heavy equipment suppliers, and warehouses.

COMMERCIAL, LIGHT — A commercial use that generally has retail or wholesale sales, office uses, or services, which does not generate noise or other impacts considered incompatible with less-intense uses. Businesses within this

definition only include those that conduct sales and storage entirely within an enclosed and permanent structure with the exception of occasional outdoor "sidewalk" promotions. Typical establishments or businesses in this definition are, but shall not be limited to, commercial/public garages, financial institutions (e.g., banks, credit unions, etc.), mercantile occupancies (pharmacy, grocery store, clothing store, etc.), and assembly uses intended for food and/or drink consumption (e.g., tavern, restaurant, etc.).

~~COMPREHENSIVE PLAN — The declaration of purposes and planning recommendations to help guide the development of the Town.~~

COMPREHENSIVE PLAN – Shall bear the same meaning as "town comprehensive plan" that is defined in § 272-a of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

CONTIGUOUS — Next to, abutting, or touching and having a boundary or portion thereof, that is coterminous.

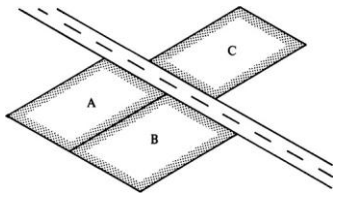


Figure 350-4: Contiguous Lots

(Note: Lots A and B are contiguous but Lot C is not contiguous to either Lots A or Lot B)

CONTRACTOR'S STORAGE YARD — A lot or portion thereof used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.

COOKING FACILITIES — Appliances and/or facilities designed to be used for the cooking of food, such as but not limited to an electric griddle, hotplate, microwave oven, oven, range, stove, or toaster oven.

CORRECTIONAL FACILITY — Shall bear the same meaning as "correctional facility" that is defined in Article 1 of the Correction Law of NYS, as currently in effect and as hereafter amended from time to time.

~~COTTAGE HOUSING DEVELOPMENT — One or more clusters of single-unit dwellings, where the gross floor area of each dwelling shall not exceed 1,500 square feet, developed under a single land development plan in compliance with the applicable provisions of this chapter.~~

COTTAGE HOUSING DEVELOPMENT – One (1) or more clusters of single-unit dwellings developed under a single land development plan that is in compliance with the applicable provisions of this chapter.

COUNTRY CLUB — A membership organization formed for recreational purposes which includes a clubhouse, golf course and may include other recreational activities, such as swimming pools, tennis courts and squash courts. Dining facilities, meeting rooms, lounges, snack bars and retail sales may also be permitted as accessory uses.

COUNTY — Yates County, New York.

COUNTY CLERK — The County Clerk of Yates County.

CULTURAL CENTER — A building to present exhibits of cultural, scientific or academic material, live theater and dance performances, musical concerts, cinema, lectures or a combination thereof to the general public as a nonprofit enterprise.

DE MINIMIS — A minimal deviation from the norm or standard.

~~DENSITY — The maximum number of dwelling units allowed at a lot of record. Such number of dwelling units is computed by dividing the actual lot area of such lot by the minimum lot area required for the zoning district where it is located. For example, the maximum number of dwelling units for a lot of record is two when the actual lot area of a lot of record is eight acres and the minimum lot area for the zoning district where it is located is four acres.~~

DENSITY – The maximum number of dwelling units allowed at a lot of record.

DESIGNATED APPROVAL AUTHORITY — An AHJ that has been charged with the review and approval of applications as prescribed by this chapter.

DETACHED – Shall bear the same meaning as “detached” as defined in the Uniform Code.

DEVELOPER — An owner who undertakes development activities.

DEVELOPMENT — Any activity, other than unimproved open space, which materially affects the existing condition or use of any land or structure.

DEVELOPMENT, MIXED USE — A development that combines two or more different types of uses, whether housed in a single building or in separate buildings, at a lot of record. As an example, a building may include commercial uses on the ground floor and residential uses on the upper floors.

Figure 350-5: Mixed Use Development

~~DORMITORY — A building used as a group living quarters for a student body or religious order as an accessory use to a higher education school, boarding school, convent, monastery or similar institutional use. For the purposes of this chapter, a dormitory shall be classified as either a hotel or motel, which such classification is dependent of the location of the door to a sleeping unit, for transient occupancy and as a multiple-unit dwelling where occupants are primarily permanent in nature.~~

DORMITORY – Shall bear the same meaning as “dormitory” as defined in the Uniform Code. For the purposes of this chapter, a dormitory shall be classified as either a hotel or motel, which such classification is dependent of the location of the door to a sleeping unit, for transient occupancy and as a multiple-unit dwelling where occupants are primarily permanent in nature.

DRIVE-THROUGH WINDOW FACILITY — Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a vehicle during such business transactions. A drive-through window facility is considered an accessory use to a commercial use such as, but not limited to, a bank or restaurant. However, a vehicle service station is not considered a drive-through window facility for purposes of this chapter.

DRIVEWAY — A portion of a lot of record used primarily as a means for vehicle ingress and egress from such lot and the temporary parking for one or more vehicles which are generally associated with the owner of such lot.

~~DWELLING UNIT — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

DWELLING UNIT – Shall bear the same meaning as “dwelling unit” as defined in the Uniform Code.

DWELLING UNIT, ACCESSORY — An accessory structure that is a secondary single-unit dwelling located on the same lot of record as the principal building/use, which shall be a single-unit dwelling.

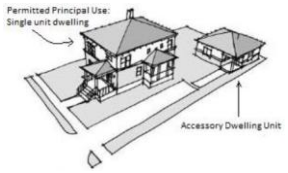


Figure 350-6: Accessory Dwelling Unit

~~DWELLING, MULTIPLE-UNIT — A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces.~~

DWELLING, MULTIPLE UNIT – A building or portion thereof that is designed and approved to contain three (3) or more

dwelling units in which each dwelling unit may or may not share common entrances and/or other spaces.

~~DWELLING, SINGLE-UNIT — A building designed or arranged to be occupied by one family living independently, with such building having only one dwelling unit.~~

DWELLING, SINGLE-UNIT – A building or a portion thereof that is designed and approved to contain (1) dwelling unit.

~~DWELLING, TWO-UNIT — A building designed or arranged to be occupied by two families living independently, with such building having only two dwelling units.~~

DWELLING, TWO-UNIT – A building or portion thereof that is designed and approved to contain two (2) dwelling units in which each dwelling unit may or may not share common entrances and/or other spaces.

ENERGY CODE — The NYS Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

ENVIRONMENTAL ASSESSMENT FORM (EAF) — A form used in the environmental review process prescribed in SEQRA as that term is defined in 6 NYCRR, Chapter VI, Part 617, State Environmental Quality Review, as currently in effect and as hereafter amended from time to time.

ESSENTIAL PUBLIC SERVICES — Commodities and/or services provided by government and/or public service agencies that provide services on behalf of the public, which are critical to the health, safety, and welfare of the public. Essential public services may include, but are not limited to, governmental offices, parks and recreation facilities; public transit facilities; schools; gas, electric, steam and/or telecommunications distribution and/or generation systems; sanitary sewer, stormwater conveyance and water distribution systems; wastewater treatment plants; water treatment plants; emergency communications systems and their customarily related appurtenances; emergency services; municipal animal shelter; and municipal highway facilities. However, such term shall not include correctional facilities, junkyards and facilities used for the disposal of solid waste.

~~EXISTING BUILDING/STRUCTURE — A building or structure erected prior to the effective date of this chapter, or one for which a legal certificate or permit has been issued by the Town.~~

EXISTING BUILDING/STRUCTURE – Shall bear the same meaning as “existing building” or “existing structure” that is defined in the Uniform Code.

EXTERIOR PROPERTY – This term shall bear the same meaning as “exterior property” that is defined in the Uniform Code.

FAMILY —

A. One or more persons, which such persons are not necessarily related by adoption, blood, guardianship or marriage, living together in a dwelling unit as a single housekeeping unit. In determining whether a group of persons is living together as a family unit, the following criteria must be present:

~~(1) The group of persons are one which, in theory, size, appearance, structure and function, resembles a family unit; and~~

(1) The group of persons share the entire dwelling unit and cook, eat, live and sleep together as a single housekeeping unit. Such housekeeping unit in which the various persons act as separate roomers may not be deemed to be occupied by a family unit; and

(2) The group of persons share expenses for food, rent or ownership costs, utilities and other household expenses; and

(3) The group of persons are categorized as a family unit as prescribed by law.

B. For the purposes of this chapter, this term does not include such person(s) occupying a boardinghouse, dormitory, fraternity house, extended stay hotel, hotel, lodging house, motel, rooming house, sorority house or like uses; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

FAMILY, IMMEDIATE – Parents, children, brothers and sisters, grandparents, grandchildren and spouses. This term includes members of a family whether by adoption, blood, guardianship or marriage, and includes half-blood (a.k.a., step) members.

FAMILY, RELATED – One (1) or more individuals, which such individuals are related by adoption, blood, guardianship or marriage.

FARM OPERATION — Shall bear the same meaning as "farm operation" that is defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

FARM STAND — A structure for the display and sale of farm products primarily grown on the lot of record upon which such stand is located.

FARM WASTE ENERGY SYSTEM — An arrangement or combination of farm waste electric generating equipment or other materials, hardware or equipment necessary to the process by which agricultural waste biogas is produced, collected, stored, cleaned, and converted into forms of energy, such as thermal, electrical, mechanical or chemical, and by which the biogas and converted energy are distributed on- site. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling or insulation system of a structure. Lastly, such system shall be classified as a customarily accessory use to an essential public service or a farm operation.

FARM WORKER HOUSING UNIT — A dwelling unit located on an active farm operation located in an NYS-certified agricultural district that is accessory to such operation and is occupied by employees of the farm, members of the farm household and/or their guests. For the purposes of this chapter, this unit shall be classified as an accessory structure/use to a farm operation.

FILE-HOSTING SERVICE – An internet hosting service designed to host files (e.g., Dropbox™). These services allow users to view and/or upload files that can be accessed over the internet. This service shall be accessible and free to use by any person who desires to view such files.

FIRE CODE – The Fire Code of NYS, as currently in effect and as hereafter amended from time to time.

FIRE SEPARATION DISTANCE — Shall bear the same meaning as "fire separation distance" that is defined in the Uniform Code.

FLOOR AREA, GROSS — Shall bear the same meaning as "floor area, gross" that is defined in the Uniform Code.

FLOOR AREA, NET — Shall bear the same meaning as "floor area, net" that is defined in the Uniform Code.

FOOD PROCESSING ESTABLISHMENT AND COMMISSARY — Shall bear the same meaning as "food processing establishment and commissary" that is defined in Part 14, Subpart 14-1 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

FOOTPRINT, BUILDING — The horizontal area, as seen in plan view, of a structure, measured from the outside of exterior walls and supporting columns.

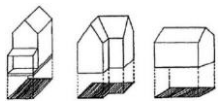


Figure 350-7: Footprint of Various Structure Shapes

FRATERNITY HOUSE or SORORITY HOUSE — A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity or sorority members and their guests and visitors and affiliated with a higher education school. For the purposes of this chapter, a fraternity or sorority house shall bear the same meaning as “dormitory” as defined in this chapter.

FRONTAGE — The width of a lot of record abutting a road that is measured at the front lot line. For clarification purposes,

frontage at a lot of record shall not be less than the lot width prescribed in the bulk regulations for the applicable zoning district unless permitted otherwise by this chapter.

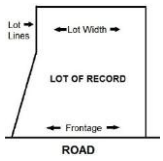


Figure 350-8: Frontage

FUNERAL ESTABLISHMENT — Shall bear the same meaning as "funeral establishment" that is defined in § 3400 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time.

GARAGE, PRIVATE — A detached structure or a portion of a building where vehicles, excluding aircraft, used by the occupants of the principal building at a lot of record are stored. For the purposes of this chapter, this definition shall also include carports and similar types of structures used for the storage of private vehicles.

~~GRADE PLANE — A reference plane representing the average of finished ground level adjoining the structure at exterior walls.~~

GRADE PLANE – Shall bear the same meaning as “grade plane” as defined in the Uniform Code.

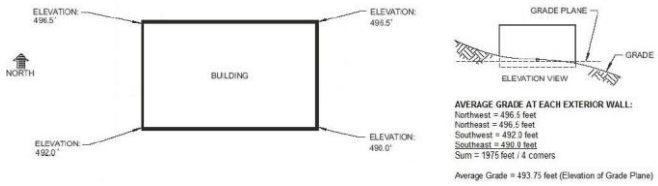


Figure 350-9: Grade Plane

GUEST HOUSE – An accessory dwelling unit that shall only be occupied by immediate and/or related family members as well as guests of the owner. This unit shall not be for rent or any other form of compensation.

Figure 350-10: Example of a Guest House

HABITABLE SPACE – Shall bear the same meaning as “habitable space” as defined in the Uniform Code.

~~HEIGHT, BUILDING — The vertical distance from grade plane to the top of a flat, shed or mansard roof, and the average distance between the bottom of the eaves to the highest point of a pitched, hipped, gambrel, or gable roof.~~

HEIGHT, BUILDING – Shall bear the same meaning as “building height” as defined in the Uniform Code.

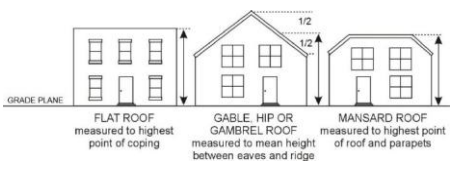


Figure 350-11: Building Height at Various Types of Roofs

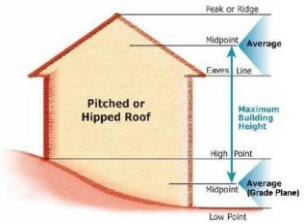


Figure 350-12: Building Height at a Sloped Lot of Record

~~HELIPORT — An airport, or an area of an airport, used or intended to be used for the landing and takeoff of helicopters.~~

HELIPORT – Shall bear the same meaning as "heliport" as defined in the Uniform Code.

HELISTOP – Shall bear the same meaning as "helistop" as defined in the Uniform Code.

HIGH VOLUME HYDRAULIC FRACTURING — Hydraulic fracturing using 300,000 gallons or more of water as the primary carrier fluid in the hydraulic fracturing fluid.

HIGH VOLUME WATER WITHDRAWAL SYSTEM — Any water withdrawal system capable of withdrawing water at or above a rate of the threshold volume, which such volume is defined in 6 NYCRR, Chapter V, Subchapter E, Part 601, as currently in effect and as hereafter amended from time to time.

HOME OCCUPATION — An occupation or business use that results in a product or service for financial gain and is conducted in whole or in part in a single-unit dwelling or an accessory structure that is an accessory use to such dwelling.

HOSPICE — Shall bear the same meaning as "hospice" and "hospice residence" that are defined in Article 40 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time.

HOSPITAL — A heavy commercial use providing primary health services as well as medical and surgical care to ~~persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as but not limited to laboratories, outpatient facilities, training facilities, medical offices, and staff residences.~~

HOSPITAL – Shall bear the same meaning as "hospital" that is defined in Article 28 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time.

HOTEL — A building, or any part thereof, that contains sleeping units for transient occupancy; sleeping units face inward with doors opening to interior hallways, a common exterior entrance or entrances (e.g., main lobby) and typically contains one or more additional services, such as but not limited to restaurants, meeting rooms, and recreational facilities intended for use by the hotel's guests.

HOTEL, EXTENDED STAY — A hotel that contains one or more dwelling units for transient occupancy.

~~HOUSEKEEPING UNIT, SINGLE — A dwelling unit where the occupants have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.~~

HYDRAULIC FRACTURING — A stimulation technique involving the pumping of hydraulic fracturing fluid, possibly with a proppant, into a formation to create fractures to increase formation permeability and productivity, but shall not include other operations during a workover.

HYDRAULIC FRACTURING FLUID — Fluid used to perform hydraulic fracturing, which includes the primary carrier fluid and all applicable additives.

IMMINENT DANGER – This term shall bear the same meaning as "imminent danger" that is defined in the Uniform Code.

INDUSTRIAL USE — Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.

INDUSTRIAL, HEAVY — An industrial use where any portion of the processing, fabricating, assembly, or disassembly takes place within an enclosed building and/or outside or in an open structure. Typical items for processing, fabricating,

assembly, or disassembly include, but shall not be limited to, exploration and/or extraction of natural resources (e.g., mining), high volume water withdrawal systems, solid waste transfer stations, steel manufacturing, underground natural gas storage facilities and other related uses, particularly those that require very large buildings, heavy volumes of truck traffic for supplies or shipments, or that may require substantial mitigation to avoid a significant adverse impact to the operational performance standards prescribed in this chapter.

INDUSTRIAL, LIGHT — An industrial use where all processing, fabricating, assembly, or disassembly of items takes places wholly within an enclosed building, serviced by a low to medium volume of vehicles and imposes a negligible impact on the operational performance standards prescribed in this chapter. Typical items for processing, fabricating, assembly, or disassembly tend to be targeted toward the end consumers rather than other businesses, such as, but shall not be limited to, clothing manufacturing, consumer electronics manufacturing, food processing establishments and commissaries, pharmaceuticals and other related uses, particularly those that require a low to medium volume of truck traffic for supplies or shipments and will not create a significant adverse impact to the operational performance standards prescribed in this chapter.

JUNKYARD — Shall be defined and regulated by the Junkyard Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.

JUSTIFIABLE CAUSE — A reasonable ground for belief that certain alleged facts exist and those facts would induce a prudent public officer, acting within the scope of his or her duties, to believe a cause for the extension of an application, certificate, notice, order or permit is appropriate and proper.

~~KENNEL — Shall be defined and regulated by the Animals Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.~~

KEY BOX – Shall bear the same meaning as “key box” that is defined in the Uniform Code.

Figure 350-13: Example of a key box.

LAND SURVEYOR — Shall bear the same meaning as "land surveyor" that is defined in Title VIII, Article 145, of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

LANDSCAPE ARCHITECT — Shall bear the same meaning as "landscape architect" that is defined in Title VIII, Article 148 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

LANDSCAPING —

A. The finishing and adornment of yards at a lot of record that are not covered by driveways, parking lots, structures, etc. Typically, landscaping is classified into the following categories:

(1) HARD LANDSCAPING — A type of landscaping which prominently uses hard materials, such as but not limited to concrete, masonry, metals, stone and wood (e.g., outdoor fireplaces, patios, stone walls, etc.). This term is also know as "hardscaping."

Figure 350-14: Hard Landscaping

(2) SOFT LANDSCAPING — A type of landscaping which prominently uses soft materials, such as but

not limited to flowers, grass, shrubs and trees, but may also include container gardens, potted plants, and hanging baskets. This term is also known as "softscaping."

Figure 350-15: Soft Landscaping

B. For clarification purposes, crops, farm woodlands, nurseries and other agricultural related products and uses as defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time, shall not be classified as landscaping.

LIVESTOCK — Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are typically identified by these categories: large animals (e.g., horses and cattle); medium animals (e.g., sheep, swine and goats); or small animals (e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons).

~~LIVING QUARTERS, ACCESSORY — A portion of a principal building or an accessory structure that is used solely as a sleeping unit for the occupants of the principal building; such living quarters shall not have a kitchen and shall not be used as an independent dwelling unit.~~

LIVING QUARTERS, ACCESSORY – A sleeping unit located within an accessory structure used solely for the occupants of the principal building; such living quarters shall not have cooking facilities and shall not be used as an independent dwelling unit.

LOAD BALANCING (NATURAL GAS) — Maintaining system integrity through measures which equalize pipeline (shipper) receipt volumes with delivery volumes during periods of high system usage. Withdrawal and injection operations into underground natural gas storage facilities are often used to balance load on a short-term basis.

LOADING SPACE — An off-street space or berth used for the loading or unloading of cargo, products or materials from vehicles.

~~LODGING HOUSE — A dwelling unit where one or more occupants are primarily permanent in nature and rent is paid for the use of individual guest rooms.~~

LODGING HOUSE – Shall bear the same meaning as “lodging house” that is defined in the Uniform Code. For the purposes of this chapter, a lodging house shall be classified as either a hotel or motel, which such classification is dependent upon the location of the door to a sleeping unit for transient occupancy and as a multiple-unit dwelling where occupants are primarily permanent in nature.

LOT AREA — The total area within the lot lines of a lot of record, excluding any road right-of-way(ROW).

LOT DEPTH — The smallest distance between the front lot line and the rear lot line at a lot of record. LOT LINE —

Any boundary line of a lot of record.

LOT LINE, FRONT — A lot line that abuts and is parallel to a road, which such line is located at either the center line of a private road or the edge of a public road's right-of-way. On corner lots and double frontage lots, all lot lines that abut a road shall be front lot lines.

LOT LINE, REAR — A lot line which does not intersect a front lot line and is most distant from, and most nearly parallel to a front lot line. Corner lots shall not have a rear lot line. For the purposes of this chapter, where the side lot lines of an interior, triangular shaped lot meet in a point, the rear lot line shall be assumed to be a line not less than five feet long drawn within the lot between the two side lot lines, which is equidistant to the front lot line.

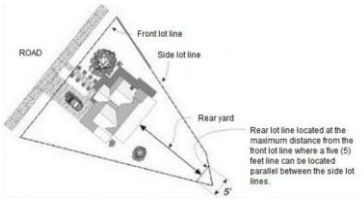


Figure 350-16: Rear Lot Line at Irregular Shaped Lots of Record

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

LOT OF RECORD — Lands designated as a separate lot on a plat or deed recorded or shall be recorded at the office of the County Clerk.

LOT OF RECORD, NONCONFORMING — A lot of record that was lawful prior to the adoption or amendment of this chapter, but such lot does not comply with currently required standards and/or bulk regulations of the zoning district in which it is now located.

LOT WIDTH — The shortest distance measured between the side lot lines at a lot of record.

LOT, CORNER — A lot of record abutting on two or more roads that intersect at the lot lines of such lot.

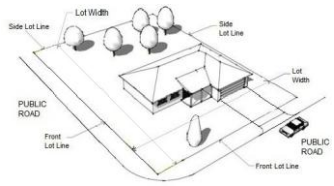


Figure 350-17: Corner Lot

LOT, DOUBLE FRONTAGE — A lot of record that fronts on two roads, which such roads do not intersect at the lot lines of such lot.

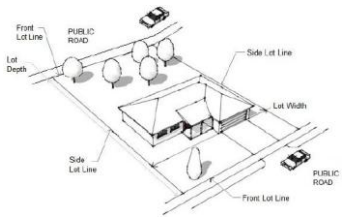


Figure 350-18: Double Frontage Lot

LOT, FLAG — A lot which has insufficient frontage on a road to comply with the minimum requirements of this chapter, but which is shaped in such a manner that the portion of the lot closest to the road (i.e., flagpole) can only be used for access purposes and not as a yard or buildable area, and whose width some distance back from the right-of-way is sufficient to provide proper space to meet the yard and setback requirements (i.e., flag).

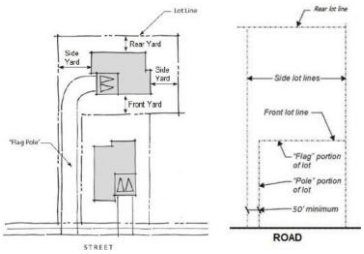


Figure 350-19: Flag Lot

LOT, INTERIOR — A lot of record other than a corner lot, double frontage lot or a flag lot.

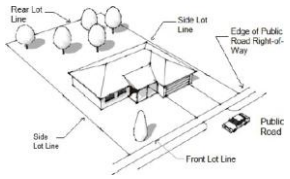


Figure 350-20: Interior Lot

MAJOR ELECTRIC GENERATING FACILITY — Shall be defined and regulated by the Article 10 of the Public Service Law of NYS, as currently in effect and as hereafter amended from time to time.

MAJOR RENEWABLE ENERGY FACILITY — Shall be defined and regulated by Section 94-C of the Executive Law of NYS, as currently in effect and as hereafter amended from time to time.

MANUFACTURED HOME — Shall bear the same meaning as a "factory manufactured home" (a.k.a., NYS approved modular home) and a "manufactured home" (a.k.a., HUD approved manufactured home) as defined in the Uniform Code. Lastly, said home is a dwelling unit pursuant to state law and shall also be classified as such for the purposes of this chapter.

MANUFACTURED HOUSING COMMUNITY — A lot of record that is under the control of one owner, which such lot has been developed for the purpose of renting or leasing sites for the placement of manufactured homes.

MARINA — A commercial enterprise for the purpose of the sale of watercrafts and marine accessories, supplies and fuel; the rental or charter of watercraft, marine equipment, dock and mooring space; winter storage; service and repair of marine equipment and watercraft; launching of watercrafts; and overnight guest facilities or any combination thereof.

MEDICAL MARIJUANA — Shall bear the same meaning as "medical marijuana" that is defined in Article 33 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time.

MEDICAL MARIJUANA DISPENSARY — A business that is registered to operate in NYS, that sells or otherwise distributes medical marijuana to certified patients and/or designated caregivers.

MIDWIFERY BIRTH CENTER — Shall bear the same meaning as "midwifery birth center" that is defined in 10 NYCRR, Chapter V, Subchapter C, Part 795, as currently in effect and as hereafter amended from time to time.

MINERAL (MINING) — Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this chapter, peat and topsoil shall be considered minerals.

MINING — The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof, for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use, exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. This term shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MOBILE HOME — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or 40 feet or more in length, or, when erected on site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle. The new installation of a mobile home shall be prohibited in the Town, but existing mobile homes are allowed to remain but shall be classified as a nonconforming use.

MOTEL — A one- or two-story building or group of buildings, whether detached or in connected units, used as individual

living and sleeping accommodations for hire that are designed primarily for transient occupancy and are provided with separate exterior entrances to parking facilities. Such accommodations are open to the exterior of the building and are usually surrounded by a common balcony or patio. Such term includes buildings designed as tourist courts, motor lodges, motor inns, auto courts, and other similar designations, but shall not be construed to include camping units and/or manufactured homes.

MULTIPLE RESIDENCE LAW — The Multiple Residence Law of NYS, as currently in effect and as hereafter amended from time to time.

MUNICIPAL CORPORATION – Shall bear the same meaning as municipal corporation as defined in § 119-n of the General Municipal Law of NYS, as currently in effect and as hereafter amended from time to time.

MUSEUM — An institution for the acquisition, preservation, study and exhibition of works of artistic, historical and/or scientific value as well as a combination thereof.

NATURAL GAS AND/OR PETROLEUM EXPLORATION — Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION AND/OR PRODUCTION MATERIALS — Any solid, semisolid, liquid, semiliquid or gaseous material used in the exploration, extraction and/or production of natural gas.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION AND/OR PRODUCTION WASTES — Any garbage, refuse, cuttings, sludge, flowback fluids, produced waters or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

NATURAL GAS AND/OR PETROLEUM EXTRACTION — The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES — The construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor that is directly associated with the exploration and/or extraction of natural gas or petroleum.

NATURAL GAS AND/OR PETROLEUM WASTES DUMP — Land upon which natural gas and/or petroleum extraction, exploration or production wastes, or their residue or constituents. before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

~~NONCOMBUSTIBLE SIDING — A siding material that is not capable of igniting and burning. For example, technical data sheets for fiber cement products state that they qualify as a noncombustible material according to ASTM E-136, which is the nationally recognized standard test procedure that is used to determine if a material qualifies as being noncombustible.~~

NOTICE OF BLIGHTED PREMISES DESIGNATION – An order issued by the Code Enforcement Officer pursuant to this chapter.

NOTICE OF VIOLATION — An order issued by the Code Enforcement Officer pursuant to this chapter.

NURSERY — Shall bear the same meaning as "nursery" that is defined in Article 14 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time. However, such use shall not be permitted to conduct mining operations unless permitted otherwise by this chapter.

NURSERY, RETAIL — A commercial use engaged in the cultivation, delivery, design, growing, installation, maintenance, storage and/or sale of flowers, grass, shrubs, trees or other live plant materials, as well as the sale of fertilizers, firewood, garden and/or lawn accessories and ornaments, holiday and seasonal items and decorations, irrigation products, landscaping products, mulch, pots and pottery products, soil and soil amendments, stone and similar accessory and ancillary products, to the general public. However, such use shall not be permitted to conduct mining operations unless permitted otherwise by this chapter.

NYS CERTIFIED AGRICULTURAL DISTRICT – A state certified agricultural district that is governed by Article 25-AA of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time. For clarification purposes, this district is not a zoning district. This district is a geographic area within the Town that consists predominantly of viable agricultural land. Agricultural operations within this district are the priority land use and are afforded benefits and protections to promote the continuation of agricultural uses / farm operations and the preservation of agricultural land.

OPERATIONAL PERFORMANCE STANDARDS — A set of criteria or limits relating to certain characteristics that a particular use may not exceed.

OUTDOOR RETAIL SALES — The display and sale of products and services, primarily outside of a structure, such as but not limited to vehicles; garden supplies, flowers, shrubs and other plant materials; gas, tires and motor oil; food and beverages; burial monuments; and building and landscape materials.

OUTDOOR SPORTSPERSON CLUB — A building, facility or lands owned and maintained by a membership organization for the purpose of providing outdoor recreational opportunities for members and their guests, such as but not limited to archery ranges, camping, shooting range facilities (whether for practice, education or competition), hunting and trapping, and all-terrain vehicle, snowmobile and other off-road motor vehicle trails; provided, however, that no motorized racing is involved. Food, meals and beverages may be served on such premises, provided adequate dining room space and/or kitchen facilities are available. Lastly, recreational cabins used in conjunction with an outdoor sportsperson club, which is used solely by such club's members, shall be classified as an accessory structure.

OUTDOOR WOOD BOILER — Shall bear the same meaning as "outdoor wood boiler" that is defined in 6 NYCRR, Chapter III, Subchapter A, Part 247, Outdoor Wood Boilers, as currently in effect and as hereafter amended from time to time.

OWNER — Any person, agent, operator, firm or business entity having a legal or equitable interest in the property as recorded in the official records of the county as holding title to the property.

PARK — A tract of land that is publicly owned and dedicated or designated by any federal, state or local government or agency primarily for active and/or passive public recreational purposes.

PARKING LOT — An open area, other than a road, used for the parking of vehicles.

PARKING SPACE — A space within a structure, or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of vehicles.

PATIO – An uncovered horizontal surface with a surface height, at any point, less than thirty (30) inches above finished grade, intended for use as an outdoor amenity space. This structure is supported entirely by the ground below it and not an elevated platform, which the latter would be a deck.

Figure 350-21: Example of a patio.

~~PERMANENT PLACE OF ABODE — Shall be defined and regulated by Tax Bulletin No. TB-IT-690, dated December 15, 2011, issued by the NYS Department of Taxation and Finance, as currently in effect and as hereafter amended from time to time.~~

PERMANENT PLACE OF ABODE – A dwelling unit that complies with all the following:

A. This unit is designed and maintained to be occupied for year-round use and complies with all requirements (e.g., electric, fire protection, foundation, mechanical, plumbing, etc.) deemed necessary by the Energy Code and Uniform Code; and

B. A person declaring this unit to be his/her/their permanent place of abode shall be responsible for the maintenance of this unit. For clarification purposes, NYS has determined that a person who does not own or lease this unit may declare it as his/her/their permanent place of abode if he/she/they make contributions to this unit, which is in the form of money, services and/or other contributions.

PERSON — A natural person, heirs, executors, administrators or assigns, and includes a firm or business entity, its or their successors or assigns, or the agent of any of the aforesaid.

~~PLACE OF WORSHIP — Any building, together with its accessory structures and uses, where persons regularly assemble for religious worship, and which building is maintained and controlled by a religious body organized to sustain public worship.~~

PLACE OF WORSHIP – A building or portion thereof that satisfies all the following:

A. It is owned or leased by a religious corporation as described by the Religious Corporation Law of NYS, as currently in effect and as hereafter amended from time to time; and

B. It is used by this religious corporation as an assembly occupancy, which is defined in the Uniform Code, for religious worship or other religious observances presided over by a member of the clergy.

~~PLANNED UNIT DEVELOPMENT — A development that contains a combination of commercial, industrial and/or residential uses that are guided by a total design plan in which one or more of the zoning regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with the applicable regulations for such development as prescribed by this chapter.~~

PLANNED UNIT DEVELOPMENT – A development in which its uses and standards shall be in accordance with a master plan as well as the creation of a planned unit development district, which shall be approved by the designated approval authority prescribed in this chapter. This development shall be categorized into one of the following types:

A. Planned commercial / industrial development.

B. Planned residential development.

C. Planned resort development.

PLANNED UNIT DEVELOPMENT DISTRICT – An independent, freestanding zoning district, wherein the uses and standards for this district shall be established and maintained in accordance with a master plan approved by the designated approval authority.

PLANNED COMMERCIAL / INDUSTRIAL DEVELOPMENT – A planned unit development consisting of nonresidential uses and their accessory uses.

Figure 350-22: Example of a Planned Commercial / Industrial Development

PLANNED RESIDENTIAL DEVELOPMENT – A planned unit development consisting of residential uses and their accessory

uses, but also may contain other uses deemed appropriate by the designated approval authority for this type of development.

Figure 350-23: Example of a Planned Residential Development.

PLANNED RESORT DEVELOPMENT – A planned unit development consisting of living accommodations (e.g., dwelling units, hotels, motels, etc.), commercial uses (e.g., restaurant), recreational facilities (e.g., marina) and/or their accessory uses in a setting with high natural amenities (e.g., Keuka or Seneca Lakes).

Figure 350-24: Example of a Planned Resort Development

PLANNING BOARD — The Planning Board of the Town of Milo.

PREMISES – This term shall bear the same meaning as “premises” that is defined in the Uniform Code.

PRIME FARMLAND — Land, designated as "prime farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

PRIVATE — Land, structure and/or use held in private ownership in accordance to the records of the Town Assessor. For example, an on-site residential wastewater treatment system (AKA "septic system") on a lot of record that is held in private ownership is classified as a private system. Conversely, a wastewater treatment plant that is held in public ownership (e.g., county, Town, etc.) is classified as a public system.

PRIVATE CLUB — An association organized and operated on a nonprofit basis for persons who are bona fide members paying dues, which association owns or leases premises, the use of which premises is restricted to such members

and their guests, and which manages the affairs of such association by and through a board of directors, executive committee, or similar body chosen by the members. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. (e.g., American Legion, Elks Lodge, Knights of Columbus, Masonic Society, Rotary Club, etc.)

PRIVATE SMALL ANIMAL OPERATION — Small livestock that are kept for the private use of the owner of a lot of record and are not sold, which includes but is not limited to its eggs, for sale.

PRIVATE STABLE — A horse or horses that are kept for the private use of the owner of a lot of record and are not for hire, remuneration or sale.

PROFESSIONAL ENGINEER — An individual who is a licensed and registered professional engineer (PE) in accordance with Article 145 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

PROFESSIONAL OFFICE — A light commercial use whose primary purpose is to provide services from one or a practice consisting of a group of accountants, doctors or other duly licensed medical practitioners or therapists, dentists or orthodontists, insurance agents, lawyers, real estate agents or brokers, registered design professionals, securities brokers or similar professions.

PROFESSIONAL TRAFFIC OPERATIONS ENGINEER (PTOE) — A certification sponsored by the Transportation Professional Certification Board, Inc., and promulgated by the Institute of Transportation Engineers. The certification process, which is adopted for professional traffic operations engineers, requires the holder to be a professional engineer and builds on/supports the practice of professional engineering registration.

PROPERTY MAINTENANCE VIOLATION – A violation of law that establishes minimum standards for the maintenance of buildings, exterior property, premises and/or structures, which is to ensure public health, safety and welfare. Laws establishing such standards are but are not limited to the following:

A. Fire Code.

B. Junk Storage Law of this town.

C. Property Maintenance Code of NYS.

D. On-site Wastewater Treatment Law of this town.

E. Public Sewers Law of this town.

F. Steep Slopes Law of this town.

G. Water Law of this town.

H. Zoning Law of this town (this chapter).

PUBLIC SERVICE AGENCY — A business entity or public agency supplying a commodity (e.g., cable, electricity, gas, internet, telephone, etc.) or service (e.g., fire protection, law enforcement, public works, sewer distribution and/or treatment, water distribution and/or treatment, etc.) to any or all members of a community.

RECREATION, ACTIVE — Recreational activities, other than golf courses, that require special facilities, fields, or equipment, such as playgrounds, ice skating rinks, running tracks, and athletic facilities, including playing fields for athletic events, tennis courts, basketball courts, and swimming pools. It shall not include any other use that is defined and/or regulated by this chapter.

RECREATION, PASSIVE — Recreational activities that do not require prepared facilities, like sports fields or pavilions, which shall not alter the existing topography of the site. Passive recreational activities place minimal stress on a site's resources; as a result, they can provide ecosystem service benefits and are highly compatible with natural resource protection. Examples are bicycling, bird watching, hiking, picnicking, observing and photographing nature, running, walking and wildlife viewing. It shall not include any other use that is defined and/or regulated by this chapter.

RECREATIONAL ACTIVITIES — Recreational activities that are active and/or passive recreation.

RECREATIONAL CABIN — A structure designed and used only for occasional use and primarily for hunting, fishing and/or similar purposes that complies with all of the following requirements:

A. Shall be designed and used as a sleeping unit; and

B. Shall be a one-story structure but may include a sleeping loft; and

C. Shall be equal to or less than 500 square feet in gross floor area; and

D. Shall not have cooking facilities.

Figure 350-25: Recreational Cabin

RECREATIONAL FACILITY — An enclosed building that is designed, constructed, designated, or used for indoor fitness and recreational activities. Examples are bowling alleys, gymnasiums, gymborees, health clubs, swimming pools, weight and fitness rooms, and wellness centers. It shall not include any other use defined and/or regulated by this chapter.

Figure 350-26: Recreational Facility

~~REGISTERED DESIGN PROFESSIONAL — An individual who is a registered architect (RA) in accordance with Article 147 of the Education Law of NYS or a licensed professional engineer (PE) in accordance with Article 145 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.~~

REGISTERED DESIGN PROFESSIONAL – Shall bear the same meaning as "registered design professional" as defined by the Uniform Code.

~~RESIDENTIAL AIRCRAFT HANGAR — An accessory structure less than 2,000 square feet and 20 feet in building height, constructed on a lot of record that is contiguous to a county airport, has written permission to access the county airport from such lot (e.g., no travel over public roads nor other lots of record) and contains a single-unit dwelling. Such hanger shall be used for the storage of owner's private aircraft and considered as an accessory use customarily incidental to the dwelling.~~

RESIDENTIAL AIRCRAFT HANGAR – Shall bear the same meaning as "residential aircraft hangar" as defined in the Uniform Code.

Figure 350-27: Residential Aircraft Hangar

RESIDENTIAL CARE/ASSISTED LIVING FACILITY — A building or part thereof housing persons, on a twenty-four-hour basis, who, because of age, mental disability or other reasons, live in a supervised residential environment which

provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

RESIDENTIAL CODE – The Residential Code of NYS, as currently in effect and as hereafter amended from time to time.

RESTORATION AGREEMENT – A legal and binding agreement between this town and an owner of a lot of record, wherein said owner proposes to perform corrective action work required to eliminate property maintenance violation(s) existing on his/her/their lot of record.

RETAINING WALL — A wall designed to prevent the lateral displacement of soil or other materials.

RIGHT TO FARM — Public policy designed to protect farmers against municipal regulations, private nuisance suits and unnecessary constraints on agricultural management practices, if these practices are consistent with federal and state law.

ROAD — A public or private way which permits conducting of vehicular traffic and/or affords the primary means of access by vehicles and pedestrians to abutting lots, which shall include the entire area within the right-of-way.

ROAD, LAKE — Roads that are classified as lake roads are prescribed in Appendix E of this chapter.[6]

SCHOOL — Any building or part thereof that is designed, constructed and/or used for education and/or instruction in any branch of knowledge.

SCHOOL, ELEMENTARY — A school whose use meets the state requirements for elementary education, and does secure the major part of its funding from a government agency.

SCHOOL, HIGHER EDUCATION — Shall bear the same meaning as "higher education" that is defined in § 2 of Title 1, Article 1, of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

SCHOOL, PAROCHIAL — A school supported, controlled and operated by a religious organization.

SCHOOL, PRIVATE — A school whose use meets the state requirements for elementary and/or secondary education, and does not secure the major part of its funding from any government agency.

SCHOOL, SECONDARY — Shall bear the same meaning as "secondary school" that is defined in § 2 of Title 1, Article 1, of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

SETBACK — The minimum required distance between a lot line and a building line.

~~SITE — An area of land, which may be categorized as a lot of record, multiple lots of record or a portion of a lot of record.~~

SITE – Shall bear the same meaning as “site” as defined in the Uniform Code.

SITE PLAN — A plan that outlines the use and development of any tract of land.

~~SLEEPING UNIT — A room or space in which people sleep, which can also include permanent provisions for living and sanitation but not kitchen facilities. Such rooms or spaces that are also part of a dwelling unit are not sleeping units.~~

SLEEPING UNIT – Shall bear the same meaning as “sleeping unit” as defined in the Uniform Code except that this unit shall not contain any cooking facilities.

SOLAR PHOTOVOLTAIC SYSTEM — Devices such as but not limited to photovoltaic (PV) modules and inverters that are used to transform solar radiation into energy.

SOLAR THERMAL SYSTEM — Devices such as but not limited to solar thermal collectors, pumps and water storage tanks that uses solar radiation to heat water or air for use within a structure for water heating, process heat, space heating or space cooling.

SOLID WASTE MANAGEMENT FACILITY — Shall bear the same meaning as "solid waste management facility" that is defined in 6 NYCRR, Chapter IV, Subchapter B, Part 360, Solid Waste, as currently in effect and as hereafter amended

from time to time.

SOLID WASTE TRANSFER FACILITY — This term shall bear the same meaning as "transfer station" that is defined in 6 NYCRR, Chapter IV, Subchapter B, Part 360, Solid Waste, as currently in effect and as hereafter amended from time to time.

SPECIAL USE PERMIT — Shall bear the same meaning as a "special use permit" that is defined in § 274-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — The rules, regulations and procedures set forth in 6 NYCRR, Chapter VI, Part 617, State Environmental Quality Review, as currently in effect and as hereafter amended from time to time, which implements Article 8 of the Environmental Conservation Law of NYS, where such state law establishes the requirement for environmental review of actions approved, funded or directly undertaken by state or local government.

STEEP SLOPE — Shall bear the same meaning as "steep slope" that is defined in the Protection of Steep Slopes Law of the Town, as currently in effect and as hereafter amended from time to time.[7]

STOP-WORK ORDER — An order issued by the Code Enforcement Officer pursuant to this chapter.

STORAGE FACILITY, SELF-SERVICE — A structure comprised of small self-contained units that are leased to individuals or businesses for the storage of household or business goods and supplies.

STORAGE, OUTDOOR — The keeping of any inventory, goods, material, or merchandise, including raw, semifinished, and finished materials for any period of time, and as an accessory to the primary use of the establishment, which is typically located at commercial and industrial uses. Storage related to a residential use, which are not classified as "junk" as defined and regulated by the Junk Storage Law of the Town of Milo,[8] as currently in effect and as hereafter amended from time to time, shall not be considered as such. However, this term shall not be deemed to apply to:

A. Agricultural equipment, materials and/or products used in conjunction with a farm operation; and

B. Construction materials stored on a site during a period of construction; and

C. Parking of customer or employee vehicles.

STORMWATER MANAGEMENT FACILITY – One (1) or a series of NYSDEC approved stormwater management practices (e.g., detention pond, infiltration basin, etc.) installed, stabilized and operating for the purpose of controlling stormwater runoff.

~~STORY — That portion of a structure included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.~~

STORY – Shall bear the same meaning as “story” as defined in the Uniform Code.

~~STORY ABOVE GRADE PLANE — Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is:~~

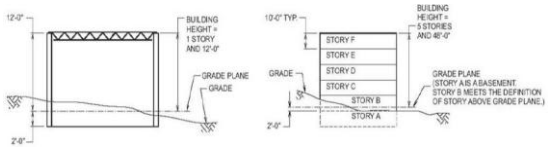
~~A. More than six feet (1,829 mm) above grade plane; or~~

~~B. More than 12 feet (3,658 mm) above the finished ground level at any point; or~~

~~C. Not classified as an attic.~~

STORY ABOVE GRADE PLANE – Shall bear the same meaning as “story above grade plane” as defined in the Uniform Code.

Figure 350-28: Story Above Grade Plane



~~STREAM — The full length and width, including the bed and banks, of any watercourse, that has a channel which periodically or continuously contains moving water. It further has a defined bed, and has banks that serve to confine water at low to moderate flows. For the purpose of this chapter, constructed drainageways, including water bars, swales, and roadside ditches, are not considered streams.~~

STREAM, PROTECTED – Shall bear the same meaning as "stream" as defined in Subsection 2 of Section 15-0501 of the Environmental Conservation Law of NYS, as currently in effect and as hereafter amended from time to time.

STREAM BANK — The lateral confines of a stream which contain the normal flow of such stream.

STREAM BANK, TOP OF — The primary edge of the ordinary high-water mark, or break in slope for a watercourse, which maintains the integrity of the stream.

STREAM, PERENNIAL — A protected stream classified by the NYSDEC, which includes water bodies in the course of a stream of 10 acres or less, with a classification of AA, A or B, or with a classification of C with a standard of (T) or (TS). Said streams are illustrated in the NYSDEC Environmental Resource Mapper and/or other approved sources (e.g., Yates County Soil and Water Conservation District.)

STRUCTURALLY SOUND — Substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

~~STRUCTURE — That which is built or constructed.~~

STRUCTURE – Shall bear the same meaning as "structure" as defined in the Uniform Code.

STRUCTURE, ACCESSORY — A structure that is subordinate to, incidental to and customarily found in connection with a permitted principal use located at the applicable lot of record. When a lot of record has a principal building located thereon, an accessory structure shall be detached from such principal building. For clarification purposes, a structure is not considered an "accessory structure" if the principal building and/or use is classified as a nonconforming, prohibited and/or special use by this chapter.

STRUCTURE, NONCONFORMING — A structure that was lawful prior to the adoption or amendment of this chapter but such structure does not comply with currently required standards and/or bulk regulations of the zoning district in which it is now located.

STRUCTURE, SHORELINE — A structure on a lot of record that is located at the water's edge or extending into the lake, including but not limited to docks, boathouses and shoreline protection structures.

Figure 350-29: Shoreline Structure

STRUCTURE, TEMPORARY — A structure that is erected without any foundation or footing and is removed when the designated time period, activity or use for which such structure was erected has ceased. Lastly, the fixed period of time shall be determined by the Code Enforcement Officer but in no case shall such time, except those for uses at construction sites, farm operations or emergency declaration/order, be more than ten (10) business days.

STRUCTURE UNFIT FOR HUMAN OCCUPANCY – This term shall bear the same meaning as "structure unfit for human

occupancy" that is defined in the Uniform Code.

STRUCTURE, UNLAWFUL – A structure found in whole or in part to be occupied by more persons than permitted by the Uniform Code, or was erected, altered and/or occupied contrary to law.

SUMMER CAMP CABIN — Shall bear the same meaning as "summer camp cabin" that is defined in 10 NYCRR, Chapter I, Part 7, Section 7-2.12(b)(3), of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time.

SWIMMING POOL – Shall bear the same meaning as "swimming pool" as defined in the Uniform Code.

TELECOMMUNICATIONS FACILITY — Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for the cellular/PCS operation, which is also known as "base transceiver station (BTS)."

Figure 350-30: Telecommunication Facility

TIMBER AND LUMBER PRODUCTION FACILITY — Shall bear the same meaning as "timber and lumber production facility" as defined in the Uniform Code. However, such term shall not include the processing of raw wood products for use on the same lot by the occupant of that lot.

TINY HOUSE – Shall bear the same meaning as "tiny house" as defined in the Uniform Code. Lastly, this house is a single unit dwelling pursuant to state law and shall also be classified as such for the purposes of this chapter.

Figure 350-31: Example of a Tiny House.

TOWN — The Town of Milo, New York.

TOWN ASSESSOR — The Town Assessor of the Town of Milo.

TOWN ATTORNEY — The Town Attorney of the Town of Milo.

TOWN BOARD — The Town Board of the Town of Milo.

TOWN CLERK — The Town Clerk of the Town of Milo.

TOWN ENGINEER — The Town Engineer of the Town of Milo.

TOWN SUPERVISOR — The Town Supervisor of the Town of Milo.

~~TOWNHOUSE — A single-unit dwelling constructed in a group of three or more attached dwelling units in which each such unit extends from the foundation to roof and with open space on at least two sides. A townhouse shall not exceed three stories above grade plane unless approved otherwise by this chapter.~~

TOWNHOUSE – Shall bear the same meaning as "townhouse" as defined in the Uniform Code. Lastly, this building shall be

classified as a residential use and each unit as a single-unit dwelling pursuant to state law and shall also be classified as such for the purposes of this chapter.

Figure 350-32: Townhouse

TRANSFER OF DEVELOPMENT RIGHTS – Shall bear the same meaning as “transfer of development rights” this is defined in and its procedure prescribed by § 261-A of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

TRANSIENT — Shall bear the same meaning as "transient" that is defined in the Uniform Code.

UNDERGROUND NATURAL GAS STORAGE FACILITY — A facility intended for the subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Such facility shall include compression and dehydration facilities as well as its associated appurtenances (e.g., pipelines). For clarification purposes, underground natural gas storage facilities do not include underground motor fuel storage tanks used in conjunction with a vehicle oriented commercial use.

UNIFORM CODE — The NYS Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

UNSAFE STRUCTURE – This term shall bear the same meaning as “unsafe structure” that is defined in the Uniform Code.

USE — The activity occurring on a lot of record for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.

USE, ACCESSORY — A use of land that is subordinate to, incidental to and customarily found in conjunction with a permitted principal use of the land or a permitted principal building, and that is carried out on the same lot of record as the permitted principal use. For clarification purposes, a use is not considered an "accessory use" if the principal use is classified as a nonconforming, prohibited, and/or special use by this chapter.

USE, CHANGE OF — Any use that substantially differs from the previously approved use of a structure or lot of record.

USE, NONCONFORMING — A use that was lawful prior to adoption or amendment of this chapter but such use does not comply with currently required standards and/or is not classified as a permitted or special use at the zoning district in which it is now located.

USE, NONRESIDENTIAL — Any use that is not a residential use as defined in this chapter.

USE, PERMITTED — Any use specifically allowed by right in a particular zoning district.

USE, PRINCIPAL — The primary or predominate use of any lot of record.

USE, PROHIBITED — A use that is not permitted in a zoning district.

USE, RECREATIONAL — Includes any lands and/or structures that are designed, constructed, designated, or used for active and/or passive recreation. It shall not include any other use that is defined and/or regulated by this chapter.

USE, RESIDENTIAL — Bed-and-breakfast dwellings, single-unit dwellings, two-unit dwellings and/or townhouses, as well as their accessory uses. For clarification purposes, multiple-unit dwellings and/or mixed use developments shall not be considered a residential use.

USE, SPECIAL — A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions. Said use requires particular consideration as to its proper location to adjacent, established or intended uses, or to the planned growth of the community. Lastly, a special use permit prescribed by this chapter shall be obtained before a special use can be built, enlarged, occupied and/or relocated.

USE, TEMPORARY — A permitted use of a building, land and/or structure in the applicable zoning district that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. A temporary use shall not be a nonconforming, prohibited and/or special use in the applicable zoning district. Furthermore, a temporary use shall not involve the construction or alteration of any permanent structure. Lastly, the fixed period of time shall be determined by the Code Enforcement Officer but in no case shall such time, except those for uses at construction sites or farm operations, be issued for more than 10 business days.

USE, UNLAWFUL – A structure found in whole or in part to be occupied by more persons than permitted by the Uniform Code, or was erected, altered and/or occupied contrary to law.

VARIANCE, AREA — Shall bear the same meaning as "area variance" that is defined in § 267 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

VARIANCE, USE — Shall bear the same meaning as "use variance" that is defined in § 267 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

VEHICLE — All vehicles designed for use in air and/or on roads, off roads, in waterways or underwater, including but not limited to aircraft, automobiles, buses, bicycles, tractors, motorcycles, motorized bicycles, and recreational vehicles.

VEHICLE ORIENTATED COMMERCIAL USE — A use providing for the maintenance, repair, reconstruction, sales and services of vehicles and other similar mechanical equipment. Such term shall be categorized into the following:

A. VEHICLE RENTAL AND SALES ESTABLISHMENT — A business that is principally engaged in selling, leasing, or renting of vehicles.

B. VEHICLE REPAIR STATION — Engine repair, body work, frame straightening, painting, upholstering, electrical work, tune-ups and all other vehicle repair activities not specifically listed in the definition of "vehicle service station."

C. VEHICLE SERVICE STATION — Any building, land area or other premises, or portion thereof, used or intended to be used for any one or a combination of the retail dispensing or sales of vehicle fuels; retail dispensing or sales of vehicle lubricants, including oil changing and chassis lubrication where substantial disassembly is not required; retail dispensing or sales of vehicle coolants; and incidental repair or replacement of vehicle parts, such as windshield wiper blades, lights bulbs, air filters, oil filters, batteries, belts, tires, fuses and the like.

D. VEHICLE WASH ESTABLISHMENT — Any building or premises, or portion thereof, the use of which is devoted to the business of washing vehicles for a fee, whether by automated cleaning devices or otherwise.

VEHICLE, RECREATIONAL — A vehicle that can be towed, hauled or driven and primarily designed for temporary living accommodations, recreational, camping and travel use. Such vehicle includes but is not limited to a recreational park trailer/park model home, travel trailer, camper, motor home, tent trailer, camping trailer, boat, boat trailer, snowmobile, snowmobile trailer, jet ski, jet ski trailer, all-terrain vehicle, all-terrain vehicle trailer and utility trailer. Furthermore, federal definitions, including the HUD definitions, explain that recreational vehicles are not designed to be used as permanent dwellings, but as temporary accommodations for recreational, camping, travel and seasonal use. Therefore, for the purposes of this chapter, a recreational vehicle shall not be classified as a dwelling unit or sleeping unit.

VETERINARIAN — Shall bear the same meaning as "veterinarian" that is defined in § 6702 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

VETERINARY FACILITY — Any fixed or mobile establishment, veterinary hospital, animal hospital, clinic or premises where veterinary medicine is practiced.



Figure 350-33: Veterinary Facility

VETERINARY MEDICINE — Shall bear the same meaning as "veterinary medicine" that is defined in § 6701 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

WAREHOUSE — A use involving the interior storage of products, supplies, and equipment within a structure, and which typically involve truck transportation to and from the site.

Figure 350-34: Warehouse

WIND ENERGY CONVERSION SYSTEM (WECS) — A machine that converts the kinetic energy in the wind into a usable form, which such machine is commonly known as a "wind turbine" or "windmill." A wind energy conversion system can be commercial or noncommercial. A wind energy conversion system may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or maintenance and control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis, rotor or propeller.

WIND ENERGY CONVERSION SYSTEM, AGRICULTURAL — A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics that has a rated capacity equal to or less than 110% of the electrical needs of a farm operation.

WIND ENERGY CONVERSION SYSTEM, LARGE — A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity greater than 30 kilowatts.

WIND ENERGY CONVERSION SYSTEM, SMALL — A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity equal to or less than 30 kilowatts.

YARD — An open, unoccupied space on a lot of record, other than a court, which is unobstructed from the ground upward by structures, except as otherwise provided in this chapter.

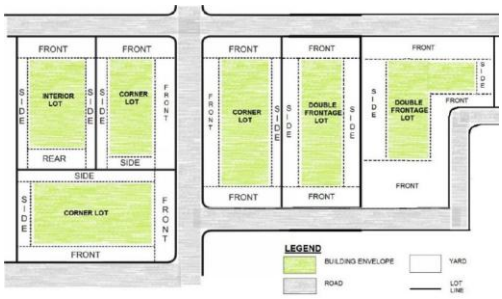


Figure 350-35: Yards at Different Types of Lots of Record

~~YARD, FRONT — A space extending the full width of the lot of record between any structure and the front lot line and measured between the front lot line and the building line nearest the front lot line, excluding any roads and their associated rights-of-way.~~

YARD, FRONT – A yard extending the full width of a lot of record between any structure and the front lot line, and measured between the front lot line and the building line nearest the front lot line, excluding any roads and their associated rights-of-way.

~~YARD, REAR — A space extending across the full width of the lot of record between the structure and the rear lot line and measured between the rear lot line and the building line nearest the rear lot line. Corner lots and double frontage lots shall not have a rear yard.~~

YARD, REAR – A yard extending across the full width of a lot of record between the structure and the rear lot line, and

measured between the rear lot line and the building line nearest the rear lot line. Corner lots and double frontage lots shall not have a rear yard.

~~YARD, SIDE — A space extending from the front yard to the rear yard between the structure and the side lot line and measured between the side lot line and the building line nearest the side lot line. On a corner lot, the side yard is the area between the structure and the side lot line, exclusive of all front yards.~~

YARD, SIDE – A yard extending from the front yard to the rear yard between the structure and the side lot line, and measured between the side lot line and the building line nearest the side lot line. On corner and double frontage lots, the side yard is the area between the structure and the side lot line, exclusive of all front yards.

ZONING BOARD OF APPEALS — The Zoning Board of Appeals of the Town of Milo.

ZONING DISTRICT — Any one of the areas, as shown on the Zoning Map, into which the Town has been divided into districts for the purposes of this chapter.

ZONING MAP — The map or maps that are a part of this chapter and delineate the boundary of zoning districts.

Part 2
General Prohibitions

ARTICLE III
General Prohibition

§ 350-9. General.

No structure; no use of any structure or land; and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, disturbed, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter.

A. Exemption(s):

(1) Alternate methods of compliance. The designated approval authority may accept alternate methods of compliance with a requirement prescribed in this chapter, provided that written expert evidence (e.g., certified planner, registered design professional, etc.) is submitted that substantiates such method is at least equivalent to such requirement.

§ 350-10. Preliminary meeting.

Any person is encouraged to meet with the Code Enforcement Officer prior to the conducting any action or operating a use that is regulated by this chapter. Said meeting may be used to expedite the review process by allowing said person to be advised of applicable requirements and/or regulations, such as but not limited to:

A. The application requirements of this chapter.

B. Any applicable regulations of the Code of the Town of Milo, such as but not limited to the Flood Damage Prevention Law, as currently in effect and as hereafter amended from time to time.

C. The requirements and classification of the type of action pursuant to SEQRA.

D. The possible involvement of other government agencies in the review process.

Part 3
Zoning Districts

ARTICLE IV
Enumeration of Zoning Districts

§ 350-11. General.

The principal objective of this chapter is to provide for an orderly arrangement of compatible structures and land uses, and for the property location of all types of uses required for the social and economic welfare of the Town. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various zoning districts established by this chapter. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of the unusual characteristics of the service they provide the public. These special uses require particular considerations as to their proper location to adjacent, established or intended uses, or to the planned growth of the community. The conditions controlling the locations and operation of such special uses are established by the applicable sections of this chapter.

§ 350-12. Zoning districts.

A. Classification. In order to classify, regulate and restrict the locations of structures and uses designated for specific areas and to regulate and determine the areas of yards and open spaces within or surrounding such structures, the Town is hereby classified into the following zoning districts:

(1) Agriculture (AG).

(2) Agricultural Residential (AR).

(3) Commercial (CO).

(4) Hamlet (HA).

(5) Lakefront Commercial (LCOM).

(6) Lakefront Recreational (LREC).

(7) Lakefront Residential (LRES).

(8) Light Industrial (LI).

B. Zoning Map. The boundaries of each zoning district are to be indicated upon the Zoning Map as approved by the Town Board, which such map is provided in Appendix D of this chapter.[11] Such map and its subsequent amendments shall be considered part of this chapter.

C. Interpretation of zoning district boundaries. Where uncertainty exists as to boundaries of zoning districts, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of roads shall be construed to follow such center lines.

(2) Boundaries indicated as approximately following existing lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following Town boundaries shall be construed as following such boundaries.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) Boundaries indicated as approximately following the edges of streams, rivers, canals, lakes or other bodies

of water shall be construed to follow the center lines thereof.

(6) Boundaries indicated as bordering on Keuka or Seneca Lakes shall be to the MHWL and shall not encompass the floors of such lakes unless NYS has delegated their authority to the Town pursuant to law.

(7) Boundaries indicated as parallel to or extensions of features indicated in Subsection C(1) through (6) above shall be construed pursuant to those provisions.

(8) Where physical or cultural features existing on the ground are inconsistent with those shown on the Zoning Map, or in other circumstances not covered above, the Zoning Board of Appeals shall interpret the district boundaries.

(9) When a lot of record is divided by more than one zoning district, the regulations of the least restrictive zoning district may be extended for a distance of 100 feet into the more restrictive zone.

D. Annexed territory. Any territory hereafter annexed into the Town shall be classified into a zoning district by the Town Board and shall be subject to all regulations applicable in such district.

E. Prohibited use. Any use that is not specifically classified as a permitted or special use in a zoning district shall be classified as a prohibited use at such district.

§ 350-13. Agriculture (AG) Zoning District.

A. Purpose. The purpose of the Agriculture (AG) Zoning District is to preserve farm operations and agricultural related land uses and support services, to promote the preservation of land resources in order to facilitate the long-term economic viability of farm operations and to protect the rural character of the Town.

B. Permitted principal uses.

(1) Agricultural fairground.

(2) Agricultural business.

(3) Agricultural service use.

(4) Agricultural tourism.

(5) Ancillary farm enterprise.

(6) Campground, family occupied.

(7) Commercial dog boarding, licensed.

(8) Commercial dog breeding, licensed.

(9) Dwelling, single-unit.

(10) Dwelling, two-unit

(11) Farm operation.

(12) Recreational cabin.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Amateur radio communications tower.

(3) Dwelling unit, accessory.

(4) Family day care home.

(5) Group family day care home.

(6) Home occupation.

(7) Living quarters, accessory.

(8) Outdoor wood boiler.

(9) Private small animal operation.

(10) Private stable.

(11) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Bed-and-breakfast dwelling.

(2) Campground.

(3) Cemetery.

(4) Commercial dog boarding, unlicensed.

(5) Commercial dog breeding, unlicensed.

(6) Cottage housing development.

(7) Hospice.

~~(8) Kennel.~~

(9) Midwifery birth center.

(10) Nursery, retail.

(11) Outdoor retail sales.

(12) Outdoor sportsperson club.

(13) Outdoor storage.

(14) Place of worship.

(15) Residential care/assisted living facility.

(16) School, elementary.

(17) School, parochial.

(18) School, private.

(19) School, secondary.

(20) Timber and lumber production facility.

(21) Veterinary facility.

(22) Wind energy conversion system, small.

(23) Wind energy conversion system, large.

(24) Wireless telecommunications facility.

E. Special uses located at a lot of record that is contiguous to and has an approved access to Route 14 and Route 14A.

(1) Commercial, light.

(2) Storage facility, self-service.

F. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be two acres.

(b) Minimum lot width shall be 200 feet.

(c) Minimum lot depth shall be 200 feet.

(d) Maximum building coverage shall be 30%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 50 feet.

(c) Minimum side yard shall be 25 feet.

[1] Exception(s):

[a] At a nonconforming lot of record, a minimum side yard of 10 feet shall be permitted for such building.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 10 feet.

(c) Minimum side yard shall be 10 feet.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

§ 350-14. Agricultural Residential (AR) Zoning District.

A. Purpose. The purpose of the Agricultural Residential (AR) Zoning District is to reserve productive farmland for farm operations and agricultural related land uses and support services, to provide for a mix of residential development types and densities, and to preserve the rural character of the Town.

B. Permitted principal uses.

(1) Agricultural business.

(2) Agricultural service use.

(3) Agricultural tourism.

(4) Dwelling, single-unit.

(5) Dwelling, two-unit.

(6) Farm operation.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Amateur radio communications tower.

(3) Dwelling unit, accessory.

(4) Family day care home.

(5) Group family day care home.

(6) Home occupation.

(7) Living quarters, accessory.

(8) Outdoor wood boiler.

(9) Private small animal operation.

(10) Private stable.

(11) Shoreline structure.

(12) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Bed-and-breakfast dwelling.

(2) Cemetery.

(3) Cottage housing development.

(4) Commercial, light.

(5) Country club.

(6) Hospice.

(7) Midwifery birth center.

(8) Nursery, retail.

(9) Outdoor retail sales.

(10) Outdoor sportsperson club.

(11) Outdoor storage.

(12) Place of worship.

~~(13) Planned unit development.~~

(14) Private club.

(15) Recreational cabin.

(16) Residential care/assisted living facility.

(17) School, elementary.

(18) School, parochial.

(19) School, private.

(20) School, secondary.

(21) Veterinary facility.

(22) Wind energy conversion system, small.

(23) Wireless telecommunications facility.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be two acres.

(b) Minimum lot width shall be 200 feet.

(c) Minimum lot depth shall be 200 feet.

(d) Maximum building coverage shall be 30%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s).

[a] A principal building located at a lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

(b) Minimum rear yard shall be 50 feet.

(c) Minimum side yard shall be 25 feet.

[1] Exception(s):

[a] At a nonconforming lot of record, a minimum side yard of 10 feet shall be permitted for such building.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s).

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

(b) Minimum rear yard shall be 10 feet.

[1] Exception(s).

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum rear yard of five feet.

(c) Minimum side yard shall be 10 feet.

[1] Exception(s).

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum side yard of five feet.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

§ 350-15. Commercial (CO) Zoning District.

A. Purpose. The purpose of the Commercial (CO) Zoning District is to provide for the orderly development of small-scale retail sales and services, and other compatible uses, in areas most appropriate for such development and to preserve the rural character of the Town.

B. Permitted principal uses.

(1) Agricultural business.

(2) Agricultural service use.

(3) Agricultural tourism.

(4) Bed-and-breakfast dwelling.

(5) Child-care center.

(6) Commercial, light.

(7) Cultural center.

(8) Dwelling, multiple-unit.

(9) Dwelling, single-unit.

(10) Dwelling, two-unit.

(11) Farm operation.

(12) Funeral establishment.

(13) Hospice.

(14) Midwifery birth center.

(15) Museum.

(16) Nursery, retail.

(17) Place of worship.

(18) Private club.

(19) Residential care/assisted living facility.

(20) School, elementary.

(21) School, parochial.

(22) School, private.

(23) School, secondary.

(24) School-age child-care center.

(25) Small day-care center.

(26) Storage facility, self-service.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Amateur radio communications tower.

(3) Dwelling unit, accessory.

(4) Family day care home.

(5) Group family day care home.

(6) Home occupation.

(7) Living quarters, accessory.

(8) Outdoor wood boiler.

(9) Private small animal operation.

(10) Private stable.

(11) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Adult entertainment establishment.

(2) Cannabis retail dispensary.

(3) Cemetery.

(4) Commercial, heavy.

(5) Hotel.

(6) Hotel, extended stay.

(7) Manufactured housing community.

(8) Medical marijuana dispensary.

(9) Motel.

(10) Outdoor retail sales.

(11) Outdoor sportsperson club.

(12) Outdoor storage.

~~(13) Planned unit development.~~

(14) Recreational facility.

(15) School, higher education.

(16) Vehicle orientated commercial use.

(17) Veterinary facility.

(18) Wind energy conversion system, small.

(19) Wireless telecommunications facility.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be two acres.

(b) Minimum lot width shall be 200 feet.

(c) Minimum lot depth shall be 200 feet.

(d) Maximum building coverage shall be 70%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 50 feet.

(c) Minimum side yard shall be 25 feet.

(d) Maximum building height shall be 60 feet.

(e) Maximum story above grade plane shall be four.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 10 feet.

(c) Minimum side yard shall be 10 feet.

(d) Maximum building height shall be 60 feet.

(e) Maximum story above grade plane shall be four.

§ 350-16. Hamlet (HA) Zoning District.

A. Purpose. The purpose of the Hamlet (HA) Zoning District is to accommodate the smaller lots and yard setbacks commonly found in the historic hamlet communities of the Town, permit small scale mixed use development, and to preserve the rural character of the Town.

B. Permitted principal uses.

(1) Agricultural business.

(2) Agricultural service use.

(3) Agricultural tourism.

(4) Dwelling, single-unit.

(5) Dwelling, two-unit.

(6) Farm operation excluding livestock.

(a) Exemption(s).

[1] Private small animal operation.

[2] Private stable.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Dwelling unit, accessory.

(3) Family day care home.

(4) Group family day care home.

(5) Home occupation.

(6) Living quarters, accessory.

(7) Private small animal operation.

(8) Private stable.

(9) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Amateur radio communications tower.

(2) Bed-and-breakfast dwelling.

(3) Cannabis retail dispensary.

(4) Child-care center.

(5) Commercial, light.

(6) Cottage housing development.

(7) Cultural center.

(8) Dwelling, two-unit.

(9) Funeral establishment.

(10) Hospice.

(11) Medical marijuana dispensary.

(12) Midwifery birth center.

(13) Museum.

(14) Nursery, retail.

(15) Outdoor retail sales.

(16) Outdoor storage.

(17) Place of worship.

~~(18) Planned unit development.~~

(19) Private club.

(20) Residential care/assisted living facility.

(21) School, elementary.

(22) School, parochial.

(23) School, private.

(24) School, secondary.

(25) School-age child-care center.

(26) Small day-care center.

(27) Veterinary facility.

(28) Wireless telecommunications facility.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be a 0.5 of an acre.

(b) Minimum lot width shall be 100 feet.

(c) Minimum lot depth shall be 150 feet.

(d) Maximum building coverage shall be 30%.

[1] Exception(s).

[a] At a nonconforming lot of record, a 10% increase of the maximum building coverage is permitted.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 30 feet.

(c) Minimum side yard shall be 10 feet.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be five feet.

(c) Minimum side yard shall be five feet.

(d) Maximum building height shall be 20 feet.

[1] Exception(s).

[a] The maximum building height can be increased by one (1) foot for each additional one (1) foot an accessory structure is located beyond the minimum side and rear yards required herein, but is shall not exceed twenty five (25) feet.

(e) Maximum story above grade plane shall be two.

§ 350-17. Lakefront Commercial (LCOM) Zoning District.

A. Purpose. The purpose of the Lakefront Commercial (LCOM) Zoning District is to accommodate lakefront hotels and motels, restaurants, marinas and other enterprises that provide goods and services to lakefront communities and tourists on Keuka and Seneca Lakes, to maintain a scale and character for such development that is compatible with the surrounding residential and recreational uses, and to preserve the rural character of the Town.

B. Permitted principal uses.

(1) Cottage housing development.

(2) Dwelling, single-unit.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Family day care home.

(3) Group family day care home.

(4) Home occupation.

(5) Living quarters, accessory.

(6) Shoreline structure.

(7) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Amateur radio communications tower.

(2) Bed-and-breakfast dwelling.

(3) Commercial, light.

(4) Dwelling, multiple-unit.

(5) Dwelling, two-unit.

(6) Hotel.

(7) Hotel, extended stay.

(8) Manufactured housing community.

(9) Marina.

(10) Motel.

(11) Outdoor retail sales.

(12) Outdoor storage.

(13) Place of worship.

~~(14) Planned unit development.~~

(15) Private club.

(16) Residential care/assisted living facility.

(17) Wireless telecommunications facility.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be two acres.

(b) Minimum lot width shall be 200 feet.

(c) Minimum lot depth shall be 200 feet.

(d) Maximum building coverage shall be 70%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s):

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

[b] This minimum yard requirement shall be increased by one foot for each additional five feet in building height that exceeds the maximum building height for this zoning district.

(b) Minimum rear yard shall be 30 feet.

(c) Minimum side yard shall be 15 feet.

[1] Exception(s).

[a] This minimum yard requirement shall be increased by one foot for each additional five feet in building height that exceeds the maximum building height for this zoning district.

(d) Maximum building height shall be 60 feet.

(e) Maximum story above grade plane shall be four.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s).

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

(b) Minimum rear yard shall be five feet.

(c) Minimum side yard shall be five feet.

(d) Maximum building height shall be 20 feet.

(e) Maximum story above grade plane shall be two.

§ 350-17.1. Lakefront Recreational (LREC) Zoning District.

A. Purpose. The purpose of the Lakefront Recreational (LREC) Zoning District is to accommodate children's overnight camps and summer day camps in a manner that protects the character and the quality of life in the residential community located within the abutting Lakefront Residential (LRES) Zoning District.

B. Permitted principal uses:

(1) Farm operation, excluding livestock.

C. Permitted accessory uses:

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Shoreline structure.

(3) Solar photovoltaic and/or thermal system.

D. Special uses:

(1) Camp, children's overnight.

(2) Camp, summer day.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be five acres.

(b) Minimum lot width shall be 500 feet.

(c) Minimum lot depth shall be 500 feet.

(d) Maximum building coverage shall be 30%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 25 feet.

(c) Minimum side yard shall be 25 feet.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be five feet.

(c) Minimum side yard shall be 25 feet.

(d) Maximum building height shall be 20 feet.

(e) Maximum story above grade plane shall be two.

§ 350-18. Lakefront Residential (LRES) Zoning District.

A. Purpose. The purpose of the Lakefront Residential (LRES) Zoning District is to preserve the residential character and protect the quality of life from the adverse impacts of nonresidential uses at the residential communities adjacent to Keuka and Seneca Lakes.

B. Permitted principal uses.

(1) Dwelling, single unit.

(2) Farm operation excluding livestock.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Family day care home.

(3) Group family day care home.

(4) Shoreline structure.

(5) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Amateur radio communications tower.

(2) Bed-and-breakfast dwelling.

(3) Cottage housing development.

(4) Guest house.

(5) Living quarters, accessory.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be a 0.5 of an acre.

(b) Minimum lot width shall be 100 feet.

(c) Minimum lot depth shall be 150 feet.

(d) Maximum building coverage shall be 30%.

[1] Exception(s).

[a] At a nonconforming lot of record, a 10% increase of the maximum building coverage is permitted.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s).

[a] A lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

(b) Minimum rear yard shall be 30 feet.

(c) Minimum side yard shall be 10 feet.

(d) Maximum building height shall be 35 feet.

(e) Maximum story above grade plane shall be three.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

[1] Exception(s).

[a] An accessory structure located at a lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five feet.

(b) Minimum rear yard shall be five feet.

(c) Minimum side yard shall be five feet.

(d) Maximum building height shall be 20 feet.

[1] Exception(s).

[a] The maximum building height can be increased by one (1) foot for each additional one (1) foot an accessory structure is located beyond the minimum side and rear yards required herein, but is shall not exceed twenty five (25) feet.

(e) Maximum story above grade plane shall be two.

§ 350-19. Light Industrial (LI) Zoning District.

A. Purpose. The purpose of the Light Industrial (LI) Zoning District is to support and stimulate local economic development by providing for light industrial, research and development enterprises in areas best suited for industrial development because of location, topography, existing facilities and relationship to other land uses. In addition, this district shall support the county airport and heliport to increase safety in the use and to protect persons and property located near such airport and heliport. Lastly, it provides standards for locating and developing such land uses in a manner that does not adversely affect adjacent residential areas and preserves the rural character of the Town.

B. Permitted principal uses.

(1) Agricultural business.

(2) Agricultural service use.

(3) Agricultural tourism.

(4) Airport, county.

(5) ~~Airport-related use.~~

(5) Aeronautical related use.

(6) Commercial, heavy.

(7) Commercial, light.

(8) Cultural center.

(9) Farm operation.

(10) Industrial, light.

(11) Marina.

(12) Midwifery birth center.

(13) Museum.

(14) Nursery, retail.

(15) Outdoor sportsperson club.

(16) Place of worship.

(17) Private club.

(18) Storage facility, self service.

(19) Timber and lumber production facility.

(20) Vehicle orientated commercial use.

(21) Veterinary facility.

C. Permitted accessory uses.

(1) Accessory uses subordinate, incidental to, and customarily found in connection with a permitted principal use located at the applicable lot of record as determined by the Code Enforcement Officer.

(2) Amateur radio communications tower.

(3) Private small animal operation.

(4) Private stable.

(5) Outdoor wood boiler.

(6) Solar photovoltaic and/or thermal system.

D. Special uses.

(1) Cannabis retail dispensary.

(2) Cemetery.

(3) Dwelling, single-unit.

(4) Industrial, heavy.

(5) Junkyard.

(6) Medical marijuana dispensary.

(7) Outdoor retail sales.

(8) Outdoor storage.

(9) Recreational facility.

(10) Wind energy conversion system, small.

(11) Wind energy conversion system, large.

(12) Wireless telecommunications facility.

E. Bulk regulations.

(1) Dimensional requirements pertaining to a lot of record.

(a) Minimum lot area shall be two acres.

(b) Minimum lot width shall be 200 feet.

(c) Minimum lot depth shall be 200 feet.

(d) Maximum building coverage shall be 70%.

(2) Dimensional requirements pertaining to a principal building.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 50 feet.

(c) Minimum side yard shall be 25 feet.

(d) Maximum building height shall be 60 feet.

(e) Maximum story above grade plane shall be four.

(3) Dimensional requirements pertaining to an accessory structure.

(a) Minimum front yard shall be 25 feet.

(b) Minimum rear yard shall be 50 feet.

(c) Minimum side yard shall be 25 feet.

(d) Maximum building height shall be 60 feet.

(e) Maximum story above grade plane shall be four.

Part 4
Standards

ARTICLE V
General Standards Applicable to all Lands, Structures and/or Uses

§ 350-20. Accessory structures and/or uses.

A. General. Accessory structure and/or use shall be located on the same lot of record as the permitted principal building and/or use. If a permitted principal building and/or use does not exist on a lot of record, an accessory structure or use may be constructed on such lot of record but shall be customarily incidental and subordinate to any future permitted principal building and/or use.

B. Criteria for determining whether a use is accessory.

(1) Use must be subordinate to the permitted principal use. A subordinate use incorporates the requirement that the accessory use be minor in relation to the permitted principal use. The following factors shall be considered in determining whether a use is subordinate:

(a) Purpose and intent of the zoning district. The purpose and intent of the zoning district and the nature of uses allowed as a permitted principal use shall be considered. As written in its definition, an accessory use shall not be a nonconforming use, prohibited use and/or a special use.

(b) Area devoted to the use. The area devoted to the use in relation to the permitted principal use shall be considered. However, the fact that an accessory use occupies less area than the permitted principal use does not necessarily make it subordinate, and the fact that a use occupies more area than the permitted principal use does not necessarily preclude it from being subordinate. For example, on a one-acre lot with a single-unit dwelling as the permitted principal use, gardening would nonetheless be subordinate to the permitted principal use even though the gardened portion of the lot may consume a significant portion of the lot's area.

(c) Frequency of the use. The time devoted to the use in relation to the permitted principal use shall be considered. An occasional/seasonal use, in relation to a year-around permitted principal use, would likely be considered to be subordinate to the permitted principal use. Conversely, a purported year-round accessory use would not be subordinate to a occasional/seasonal permitted principal use.

(d) Active versus passive activities. The relative intensity of the use, and the resulting impacts on the land and the neighboring structures and/or lots of record, shall be considered. For example, as between a landscaping business and a nursery, the landscaping business is often the more intense use because it may have a business office, employees and landscaping vehicles and equipment coming and going, as well as a storage yard where landscaping equipment and materials are stored and equipment is maintained. A nursery, on the other hand, may be limited to an area where plants are stored and watered until they can be used in the landscaping work.

(e) Number of employees and work hours. The number of employees assigned to a use and their work hours shall be a relevant consideration. Although in most cases one may expect that the accessory use will have fewer employees than the permitted principal use, that is not always the case. For example, an equipment storage yard use may have a single employee assigned to work on storage-related activities. However, the maintenance of the stored equipment could be considered to be a permitted subordinate use, even though there are more employees performing equipment maintenance work.

(f) Whether the use is truly subordinate to the permitted principal use or whether it is a different, alternative additional principal use. The use must truly be subordinate to the permitted principal use

and not be a different, alternative or additional use. For example, a barn constructed to house heavy construction equipment used solely for construction services is a different, alternative additional use than a farm operation.

(2) Use shall be customarily incidental to the permitted principal use. The term "incidental" incorporates the concept of a reasonable relationship with the permitted principal use. It is not enough that the use be subordinate; it must also be attendant or concomitant. To ignore this latter aspect of "incidental" would be to permit any use which is not a permitted principal use, no matter how unrelated it is to the permitted principal use. The following factors shall be considered in determining whether a use is customarily incidental to the permitted principal use:

(a) The size of the lot of record and surrounding land conditions.

(b) The nature of the permitted principal use located at the lot of record, adjacent lots of record and allowed in the applicable zoning district.

(c) The goals, objectives and purpose of the applicable zoning district as indicated in the Comprehensive Plan and this chapter.

(d) Whether the proposed use is customarily incidental to the permitted principal use as determined by an AHJ.

For example, the kinds of uses that are commonly, habitually and by long practice established as uses that are reasonably associated with a single-unit dwelling include garages, swimming pools, decks, gazebos, small sheds and small-scale gardening; the kinds of uses that are commonly, habitually and by long practice established as uses that are reasonably associated with a farm operation include barns, sheds, silos, the storage of farm equipment and machinery, and the raising of crops and livestock.

C. Location. Accessory structures shall be constructed in compliance with requirements for the zoning district in which such structure is located, except as noted elsewhere in this chapter. Exemption(s):

(1) Clothesline and flagpoles. Notwithstanding any other provision of this chapter, clotheslines and flagpoles shall be exempt from any yard requirements, provided that such poles shall be constructed of standard materials used for such purposes.

(2) Exterior stairs not acting as a means of egress. Exterior stairs not acting as a means of egress as prescribed by the Uniform Code shall be at least five feet from any lot line. However, such stairs are permitted to be located at the MHWL at lots of record contiguous to Keuka Lake or Seneca Lake, unless permitted otherwise by an AHJ.

(3) Private garage. A private garage shall be permitted to be located a minimum of 10 feet from the front lot line at a sloping lot of record unless it is located within the Lakefront Residential District, which such setback is five feet from a lake road.

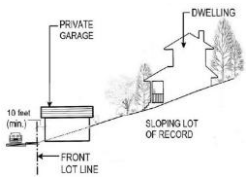


Figure 350-36: Private Garage and Sloping Lot of Record

(4) Outdoor hot tubs, spas and swimming pools.

(a) Location. Outdoor hot tubs, spas and swimming pools shall be located only at a rear and/ or side yard of a lot of record.

(b) Setbacks. Outdoor hot tubs, spas and swimming pools shall be at least five feet from any lot line, measured to the exterior wall of the pool. Filters, pumps and other appurtenant machinery shall also be located at least five feet from any lot line.

(c) Supported by other structures. Hot tubs, spas and swimming pools that are supported by other structures (e.g., decks, porches, etc.) shall be certified by a registered design professional to support such additional loads.

(5) School bus waiting shelter. A school bus waiting shelter shall be permitted to be located a minimum of 10 feet from the front lot line and five feet from a side lot line. Such shelter shall not be greater than 50 square feet in gross floor area.

(6) Shoreline structure. A shoreline structure shall be permitted to be located at the MHWL unless permitted otherwise by the Keuka Lake Uniform Docking and Mooring Law of the Town, as currently in effect and as hereafter amended from time to time,[12] or an AHJ (e.g., NYSDEC, U.S. Army Corps of Engineers, etc.).

(7) Trams.

(a) Registered design professional. Trams shall be designed and certified by a registered design professional.

(b) Setbacks. A tram shall be at least five feet from any lot line. However, a tram is permitted to be located at the MHWL at lots of record contiguous to Keuka Lake or Seneca Lake unless permitted otherwise by an AHJ.

Figure 350-37: Tram

D. Storage purposes. Any accessory structure used for storage purposes (e.g., private garages) at a residential use shall be enclosed to prevent the stored items from being seen from an adjacent lot of record and/or a road, whether private or public.

E. Vacant lot. An accessory structure may be located on a vacant lot of record but shall comply with all the following:

(1) Bulk regulations for an accessory structure for the applicable zoning district as prescribed by this chapter.

(2) The use of the accessory structure shall be for the sole purpose of the owner.

(3) The use of the accessory structure shall be for agricultural (e.g., barn, silo, etc.) and/or residential purposes (e.g., storage shed, garage, etc.).

§ 350-21. Building coverage.

The lands covered at a lot of record by principal buildings and accessory structures shall not exceed the maximum building coverage set forth in the bulk regulations for the zoning district where such lot of record is located. Exemption(s):

A. Agricultural buildings.

B. Driveways, sidewalks, walkways and/or similar surfaces.

C. Exterior electrical, mechanical and plumbing equipment.

D. Exterior means of egress.

E. Fences and similar types of structures.

F. Landscaping.

G. Loading docks and parking spaces.

H. Patios.

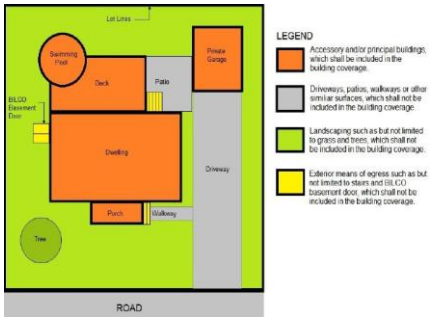


Figure 350-38: Building Coverage

§ 350-22. Building height.

No structure shall have an aggregate height of a greater number of feet than is permitted in the bulk regulations for the zoning district in which such structure is located, except as noted elsewhere in this chapter. Exemption(s):

A. Unless specifically regulated in this chapter, nothing contained herein shall limit or restrict the building height of any structure used solely for agricultural purposes; or any clothesline poles, flagpoles, church spires, belfries, clock towers, chimney flues, cupolas and domes, elevator penthouses, airport and/or heliport control towers, parapet walls extending not more than four feet above the limiting height of the structure, plumbing stacks, personal television or radio antennas, or similar structures.

§ 350-23. Demolition.

A. Intent. The provisions contained within this section are intended to serve as supplemental requirements to the Uniform Code in order to protect the public health, safety and general welfare insofar as they are affected by the demolition of structures. Such provisions also establish procedures in order to provide a clean, level, seeded, buildable site at the conclusion of a demolition process. These regulations shall supplement and not replace the applicable provisions established within the Uniform Code.

B. Excavation and fill. Excavation and fill for demolitions shall be executed so as not to endanger life or property. Additionally, the slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than two units horizontal to one unit vertical (50% slope) shall be designed and certified by a registered design professional.

C. Explosive material.

(1) The storage, handling and use of explosive materials shall be in accordance with NFPA 495, Explosive Materials Code, as currently in effect and as hereafter amended from time to time.

(2) All blasting operations shall be under the direct supervision of an individual who is legally licensed to use explosives and who possesses the required permits from the NYS Department of Labor or any other approval authority.

(3) A fire watch as defined and implemented by the Uniform Code shall be required at all blasting operations.

D. Restoration. Where a structure or a portion thereof has been demolished or removed, any disturbed area of the

lot of record shall be restored to the existing grade in an approved and workmanlike manner. Such lot of record shall be seeded and landscaped in a workmanlike manner after the demolition and fill work have been completed.

E. Safety. Safety measures shall be taken during demolition work and such measures shall comply with the applicable requirements of the Unites States Department of Labor, OSHA and the applicable provisions of the Uniform Code.

F. Utility services. Utility services shall be abandoned and capped in accordance with the approved policies and/or regulations of the AHJ.

G. Waste disposal. Waste shall not be accumulated within structures and shall be disposed in accordance to the law.

§ 350-24. Density.

~~The maximum density of dwelling units at a lot of record shall be one dwelling unit per lot of record. Exemption(s):~~

~~A. Accessory dwelling unit where authorized by this chapter.~~

~~B. Camp, children's overnight, where authorized by this chapter.~~

~~C. Camp, summer day, where authorized by this chapter.~~

~~D. Caretaker quarters where authorized by this chapter.~~

~~E. Cottage housing development where authorized by this chapter.~~

~~F. Extended stay hotel where authorized by this chapter.~~

~~G. Manufactured housing community where authorized by this chapter.~~

~~H. Multiple-unit dwelling where authorized by this chapter.~~

~~I. Planned unit development where authorized by this chapter.~~

~~J. Two-unit dwelling where authorized by this chapter.~~

A. General. The maximum density of dwellings units at a lot of record shall be as follows:

(1) At the Lakefront Residential (LRES) zoning district, the maximum density shall be one (1) dwelling unit per lot of record.

(2) At all other zoning districts, the maximum density shall be as follows:

(a) One (1) dwelling unit per half (0.5) acre when a lot of record is connected to public sewer and public water.

(b) One (1) dwelling unit per two (2) acres when a lot of record is not connected to public sewer and public water.

B. Exception(s). The following uses are exempt from the maximum density of dwelling units at a lot of record:

(1) Accessory dwelling units where authorized by this chapter.

(2) Camp, children's overnight where authorized by this chapter.

(3) Camp, summer day where authorized by this chapter.

(4) Caretaker quarters where authorized by this chapter.

(5) Cottage housing development where authorized by this chapter.

(6) Extended stay hotel where authorized by this chapter.

(7) Guest house where authorized by this chapter.

(8) Hotel where authorized by this chapter.

(9) Manufactured housing community where authorized by this chapter.

(10) Motel, where authorized by this chapter.

(11) Planned unit development district where authorized by this chapter.

C. Capacity of essential services and/or infrastructure. The density at a lot of record shall not exceed the capacity of essential services and/or infrastructure as determined by the applicable AHJ.

§ 350-24.1. Driveways.

A. Purpose and intent. The purpose of this section is to protect public safety and welfare in the Town by establishing minimum standards for the location, design and construction of driveways to ensure access that does not impede drainage, traffic, public safety or road maintenance; and to ensure access for emergency response vehicles and services.

B. Applicability. The driveway standards prescribed in this section are applicable to new driveways proposed to be installed at a lot of record and such driveways are not regulated by the Uniform Code. Driveways that are regulated by the Uniform Code shall conform to the applicable provisions of such state code.

C. Design. The design of driveways, including bridges and other supporting structure of driveways, shall facilitate passage of fire apparatus and be approved.

(1) Accessory driveway structures. An accessory driveway structure shall have a minimum setback distance of 10 feet to any public right-of-way unless approved otherwise by an AHJ.

(2) Bridge or elevated surface. A bridge or elevated surface, except culvert pipes approved by an AHJ, shall be designed by a registered design professional as well as reviewed and approved by the Town Engineer and the Fire Department having jurisdiction. Where a bridge or an elevated surface is part of a driveway, the bridge shall be constructed and maintained in accordance with AASHTO HB-17, as currently in effect and as hereafter amended from time to time. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges where required by an AHJ. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces that are not designed for such use, approved barriers, approved signs or both shall be installed and maintained where required by an AHJ.

(3) Dimensions. Driveways shall provide a minimum unobstructed width of 12 feet and a minimum unobstructed height of 13 feet six inches.

(4) Distance to lot lines. Driveways shall provide a minimum distance of five feet to side lot lines.

(5) Gates. The installation of security gates across a driveway shall be approved by the Fire Department having jurisdiction. Where gates are installed, they shall have an approved means of emergency operation. The gates and the emergency operation shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325, as currently in effect and as hereafter amended from time to time. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200, as currently in effect and as hereafter amended from time to time.

(6) Grade. The maximum driveway grade is 10%, unless written documentation from a registered design professional is submitted to the Code Enforcement Officer that such driveway and/or road cannot be built with a maximum grade of 10%, in which case, a maximum grade of 15% may be approved prior to

construction. Such design professional shall design and certify the construction of such driveway and/or road.

(a) Exception(s):

[1] A maximum driveway grade of more than 15% shall designed by a registered design professional as well as reviewed and approved by the Town Engineer and the Fire Department having jurisdiction. Such design professional shall design and certify the construction of such driveway and/or road.

(7) Surface. Driveways shall be designed and maintained to support the imposed loads of fire apparatus and shall have an all-weather driving surface.

D. Maintenance. Owners of real property having access to a public highway or private road shall be fully responsible for maintenance of their driveway and channelization (e.g., culvert pipe). This maintenance responsibility includes removal of snow and ice and keeping the portion of a driveway located within a highway right-of-way in a safe condition for the general public and emergency responders.

E. Obstructions. Driveways shall not be obstructed in any manner except for the parking of vehicles at lot of record containing only a residential use.

F. Public roads. Portions of a driveway located within the rights-of-way (ROW) of a public road shall be approved by the applicable AHJ (e.g., County Highway Department, NYSDOT, Town Highway Department, etc.).

§ 350-25. Erosion and stormwater management.

A. Construction activity.

(1) General. All land development activities shall conform to the substantive requirements of the NYSDEC's State Pollutant Discharge Elimination System (SPDES) general permit for construction activities GP-02-01 or as amended or revised.

(2) Protected streams and waterbodies. Land development activities conducted in close proximity to protected streams and waterbodies (e.g., Keuka and Seneca Lakes) shall implement erosion and stormwater control measures such as but not limited to a silt fence.

B. Drainage systems. Drainage systems (e.g., footer drains, condensate/sump pumps, roof gutters/downspouts, etc.) located within ten (10) feet from a lot line shall be discharged in such a manner as not to flow onto adjacent lots of record.

(1) Exception(s):

(a) An underground drywell that is designed and installed to accommodate the volume that drains into it and runoff from large storms without overflowing.

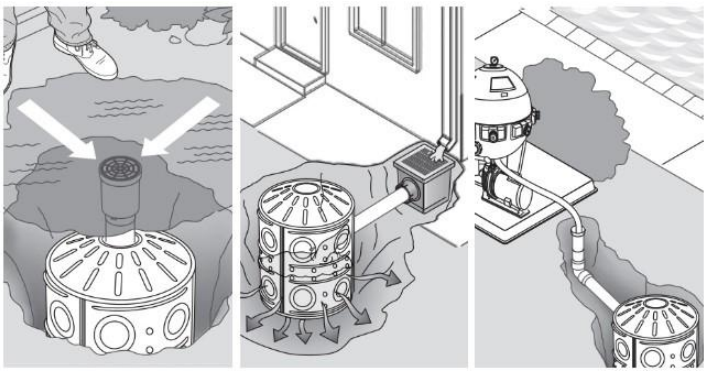


Figure 350-39: Example of a drywell at a residential use.

C. Industrial activity. All industrial activities, which such activities are classified by the NYSDEC, shall conform to the substantive requirements of the NYSDEC's State Pollutant Discharge Elimination System (SPDES) multisector general permit (MSGP) for stormwater discharges from industrial activity GP-0-12-001 or as amended or revised.

D. Stormwater management facility.

(1) Easement. Prior to the issuance of any approval by a designated approval authority that has a stormwater management facility as one of its requirements, the owner shall execute a maintenance easement that shall be binding on all subsequent owners served by this facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town and/or its agents to ensure that the facility is maintained to comply with the applicable NYSDEC standards, standards of the Town, and any other provisions established by law. The easement shall be recorded by the owner at the office of the County Clerk after approval by the Town Attorney.

(2) Maintenance. The owner of a stormwater management facility installed within his/her/their lot of record shall ensure this facility is operated and maintained in compliance with the applicable NYSDEC standards, standards of the Town, and any other provisions of law.

(3) Maintenance agreement. Prior to the issuance of any approval by a designated approval authority that has a stormwater management facility as one of its requirements, the owner shall execute a maintenance agreement that shall be binding on all subsequent owners served by this facility. The maintenance agreement shall be consistent with the conditions and terms of the NYSDEC's model agreement titled, "Sample Stormwater Control Facility Maintenance Agreement", standards of the Town, and any other provisions of law. The maintenance agreement shall be recorded by the owner at the office of the County Clerk after approval by the Town Attorney.

(4) YCSWCD. Pursuant to § 9 of the Soil and Water Districts Law of NYS, as currently in effect and as hereafter amended from time to time, the YCSWCD may assist the Town in its review, inspection, and approval regarding the design, construction, and maintenance of a stormwater management facility.

(5) Exception(s):

(a) A stormwater management facility owned by a municipal corporation (e.g., County, NYS, Town, etc.) are exempt from the requirements prescribed herein.

§ 350-26. Essential public services.

All structures and uses that require the extension of essential public services, such as sewers, storm drains, fire hydrants, potable water, public roads, streetlighting and similar services, shall obtain such approval as required by the AHJ providing such service prior to the start of work. No availability of essential public services shall be permitted to be grounds for denying and certificate or permit required to be issued by the Town for additional development until such services are available. The AHJ is not obligated to extend or supply essential public services. If approval to extend an essential public service is granted by the AHJ, the extension of such services shall be by and at the cost of the owner, unless deemed otherwise by the AHJ. All extensions of an essential public service shall be designed and installed in full compliance with the AHJ's standards for such service, which shall include but is not limited to review of applications, permitting and inspections.

§ 350-27. Existing structures and uses.

A. General. Lawfully established structures and uses in existence at the time of the adoption of this chapter shall be permitted to have their existing use continued, provided such continued use is not a threat to life and safety.

B. Additions. Additions shall be permitted to be made to any structure or use without requiring the existing portions of such structure or use to comply with the requirements of this chapter, provided that the addition conforms to the applicable provisions of this chapter for a new structure or use.

C. Change of use. A change of use of an existing structure or use shall comply with the applicable provisions of this chapter for a new structure or use.

D. Illegal structures and uses. Structures and uses that were illegally established prior to the adoption of this chapter shall remain illegal.

E. Moved structures or land uses. Structures or uses moved into or within the Town shall comply with the applicable provisions of this chapter for new structures or uses.

F. Reconstruction of existing structures. Any existing structure may be rebuilt within the same footprint and building height of such structure without complying with the applicable provisions of this chapter for new structures. The rebuilding shall start within one year from the date of the damage or start date of demolition and shall be diligently pursued to completion but shall not be greater than four years from the date of damage or start date of demolition. Lastly, the rebuilt structure shall be constructed to comply with the Energy Code, Uniform Code and/or any other applicable law.

§ 350-28. Fire separation distance between structures.

The fire separation distance for the construction, projections, openings and penetrations of exterior walls between structures shall comply with the applicable provisions of the Uniform Code.

§ 350-29. Flood damage prevention.

Land, structures and/or uses shall be regulated by the applicable provisions of the Flood Damage Prevention Law of the Town, as currently in effect and as hereafter amended from time to time.

§ 350-30. Garbage and/or rubbish containers.

At a new development containing a commercial or industrial use, all garbage and/or rubbish containers shall be located in the side or rear yard at a lot of record, set back five feet from a lot line, and not visible from the public right-of-way. In addition, garbage and/or rubbish containers at a new development containing a commercial or industrial use that is visible to a contiguous lot of record containing a residential use shall be screened. Exemption(s):

A. Garbage and/or rubbish containers used to remove debris generated from construction activity at a lot of record.

B. Garbage and/or rubbish containers are permitted to be located at the front yard during the time periods of collection by a recycling and/or trash hauler.

C. Garbage and/or rubbish containers are permitted to be located at the front yard if such containers are screened from public view. However, such containers shall be set back a minimum of 10 feet from a road, including its associated right-of-way.

D. Garbage and/or rubbish containers are permitted to be located in an area visible from the public right- of way, but such containers shall be screened from public view.

Figure 350-40: Garbage and/or Rubbish Containers Screened from Public View

§ 350-31. Junk storage.

The storage, deposit, placement, maintenance or causing or permitting to be stored, deposited, placed or maintained outdoors any junk, regardless of quantity, within sight of persons traveling the public roads shall be regulated by the Junk Storage Law of the Town, as currently in effect and as hereafter amended from time to time.[13]

§ 350-31.1. Key box.

A. General. Any new development containing a commercial and/or industrial use as well as any gate installed across a fire apparatus access road shall install a key box. The owner shall keep all keys or other access devices in this key box that will allow access by emergency response agencies.

B. Location and type. The location and type of key box shall be approved by the fire department having jurisdiction.

§ 350-32. Landscaping.

A. Landscaping plan.

(1) Guidelines. The following guidelines shall be used in developing required landscaping plans:

(a) Plants selected shall be suited to the climate and region as well as the geologic and topographic conditions of the site. Protection and preservation of native plant materials and natural areas are encouraged.

(b) Water-intensive ornamental plant materials shall not exceed 10% of the total landscaped area.

(c) Decorative water features should use recirculating water, when possible.

(d) When providing for privacy and screening for adjacent land uses, visual, noise and air quality factors shall be considered.

(e) All plant materials located in snow storage areas shall be selected to withstand the conditions associated with these areas. Additionally, all parking lot landscaping shall be salt tolerant.

(2) Landscaping plan. Landscaping plans, if required, shall be drawn to scale, including dimensions and distances, and shall clearly delineate:

(a) Plant materials, including trees, shrubs, ground cover, turf and other vegetation, shall be shown clearly on the plan. In addition, plants shall be labeled by botanical name, common name, caliper or container size, spacing and quantities in each group; and

(b) Lot lines and road names; and

(c) Driveways, roads, walkways and other paved area; and

(d) Pools, ponds, water features, lighting fixtures, fences and retaining walls; and

(e) Existing and proposed buildings and structures, including elevation, if applicable; and

(f) Natural features, including but not limited to rock outcroppings, and existing plant materials that will be preserved; and

(g) Tree staking, plant installation, soil preparation details and all other applicable planting and installation details; and

(h) Calculation of the total landscaped area; and

(i) Designation of recreation areas, if applicable.

(3) Special uses. If the proposed use is a special use, the landscaping plan shall be signed and sealed by a landscape architect or registered design professional. It shall also be included in the application for a special use permit as prescribed in this chapter.

B. Maintenance.

(1) All required planting shall be permanently maintained in good condition and, when necessary, replaced with new plant material to ensure continued compliance with these standards. For the purpose of enforcement, the owner shall be responsible for maintenance. Maintenance shall include but is not limited to watering, weeding and pruning.

(2) All landscaping shall be maintained to avoid creating a hazard or an obstruction to traffic or vehicular visibility, or where such comes into contact with or covers, hides or obstructs any traffic control device.

C. Retaining walls. The requirements of this subsection shall apply to the construction, installation, extension and replacement of all retaining walls. However, retaining walls constructed as part of a public capital improvement project are exempt from these requirements.

(1) Design. Retaining walls shall be designed to comply with any applicable provision of the Uniform Code.

(2) Easements.

(a) Access easement. Retaining walls shall not be constructed over a private or public access easement.

(b) Drainage easement. Retaining walls shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Retaining walls proposed in a drainage easement shall be approved by the AHJ.

(c) Utility easement. Retaining walls shall not restrict access to utilities. Retaining walls proposed in a utility easement shall be approved by the AHJ.

(3) Location.

(a) General. All retaining walls shall be located on a lot of record with the consent of the owner. No retaining wall shall encroach upon contiguous lot lines unless consent is granted by the applicable owner.

(b) Setback from road right-of-way. Retaining walls shall be set back from a public right-of- way by a minimum of 10 feet unless approved otherwise by the AHJ.

(4) Registered Design Professional.

(a) Design. Retaining walls that are not laterally supported at the top and that retain in excess of forty eight (48) inches of unbalanced fill, or retaining walls exceeding twenty four (24) inches in height that resist imposed loads (e.g., vehicular parking, structures, etc.) in addition to soil, shall be designed by a Registered Design Professional to ensure its stability against overturning, sliding, excessive foundation pressure, and water uplift.

(b) Roads. Retaining walls supporting imposed loads from a road, whether private or public, shall be designed by a Registered Design Professional to ensure its stability against overturning, sliding, excessive foundation pressure, and water uplift.

§ 350-33. Lot of record.

A. Access.

(1) Each lot of record shall be contiguous to a road that conforms to the requirements of the Uniform Code as

it pertains to fire apparatus access roads and § 280-a of the Town Law of NYS, as currently in effect and as hereafter amended from time to time. This abutment shall have a frontage that conforms to the minimum lot width for the zoning district in which such lot is located except for flag lots, which the latter shall have at least 50 feet of frontage suitable for access by emergency vehicles.

(2) Where topography or other natural conditions (e.g., watercourse) separates a road from a lot of record, provisions shall be made for access to such lot of record by means of culverts or other structures approved by the AHJ.

B. Arrangement.

(1) General. The arrangement of lots of record shall be such that in constructing a structure there will be no foreseeable difficulties for reasons of topography or other natural conditions, and each lot shall have a buildable area and building envelope that shall conform to the requirements of this chapter, except where such requirements have been modified pursuant to a cluster development approved pursuant to the Subdivision of Land Law of the Town, as currently in effect and as hereafter amended from time to time,[14] as well as a planned unit development approved pursuant to this chapter.

(2) Bulk regulations. A lot of record's dimensions and area shall conform to the requirements of this chapter, except where such requirements have been modified pursuant to a cluster development approved pursuant to the Subdivision of Land Law of the Town, as currently in effect and as hereafter amended from time to time,[15] as well as a planned unit development approved pursuant to this chapter.

(3) Side lot lines. All side lot lines shall be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better designed road or lot.

(4) Corner lots. Corner lots shall have two front yards and two or fewer side yards (i.e., no rear yard) to provide for proper building setback from each road and provide a desirable building site, and to avoid obstruction of free visibility at a road intersection.

(5) Double frontage lots. Double frontage lots shall have two or more front yards and two or fewer side yards (i.e., no rear yard) to provide for proper building setback from each road and provide a desirable building site, and to avoid obstruction of free visibility at a road intersection.

~~(6) Flag lots. Flag lots shall be prohibited except that a lot line adjustment or subdivision designed with a flag lot may be approved by the designated approval authority, which is designated by the Subdivision of Land Law of the Town, as currently in effect and as hereafter amended from time to time,[16] where an existing lot of record is landlocked and such lot line adjustment or subdivision is proposing to provide legal access to a road. Lastly, a flag lot shall comply with the following standards:~~

~~(a) Driveway. A driveway at a flag lot shall be constructed as a fire apparatus access road in accordance to applicable provisions of the Uniform Code. In addition, a driveway at a flag lot shall have a separation distance of 20 feet from an existing contiguous driveway.~~

~~(b) Pole configuration, road frontage. Each flag lot shall be designed to provide a "pole" that functions primarily as an accessway and egressway from a road to the main body ("flag" portion) of the lot. A minimum of 50 feet of width shall be maintained throughout the length of the pole portion. The pole portion shall be deemed to end, and the flag portion of the lot shall be deemed to commence, at the extension of the front lot line.~~

(6) Flag lots. A flag lot may be authorized as a conforming lot only if it complies with the following:

(a) Driveway. A driveway at a flag lot shall be constructed in accordance with applicable provisions of the Private Roads and Highways Law of this town as well as the Uniform Code. In addition, a driveway at a flag lot shall have a separation distance of 25 feet from an existing contiguous driveway, which shall be measured at the private or public road.

(b) Flag portion. The flag portion of a flag lot shall conform to the minimum lot area, lot depth and lot width for the applicable zoning district.

(c) Location. A flag lot shall only be permitted in the following location(s):

i. Agriculture zoning district.

ii. Agricultural Residential zoning district.

iii. Commercial zoning district.

iv. Light Industrial zoning district.

v. Existing landlocked lots. For clarification purposes, a landlocked lot is a lot that is surrounded by other lots and has no direct / legal access to a road, whether a private or public one. Furthermore, direct / legal access to a road shall be one compliant with § 280-a of the Town Law of NYS, as currently in effect and as amended from time to time.

(d) Pole configuration, road frontage. Each flag lot shall be designed to provide a "pole" that functions primarily as a driveway from a road to the main body ("flag" portion) of the lot. A minimum of 20 feet of width shall be maintained throughout the length of the pole portion, which shall consist of a driveway and 5 feet of open space on each side. The pole portion shall be deemed to end, and the flag portion of the lot shall be deemed to commence, at the extension of the front lot line.

(e) Subdivision of land. A flag lot shall be created by approval of a subdivision by the designated approval authority as prescribed in the Subdivision of Land Law of this town. Furthermore, the following shall be incorporated in such subdivision review and approval:

i. The approved plat containing a flag lot shall contain a note that no further subdivision of a flag lot shall be permitted.

ii. The number of flag lots to be created shall be limited to 1 per 3 proposed new lots, which shall not include the parent / residual lot.

iii. No flag lot shall be located behind another flag lot.

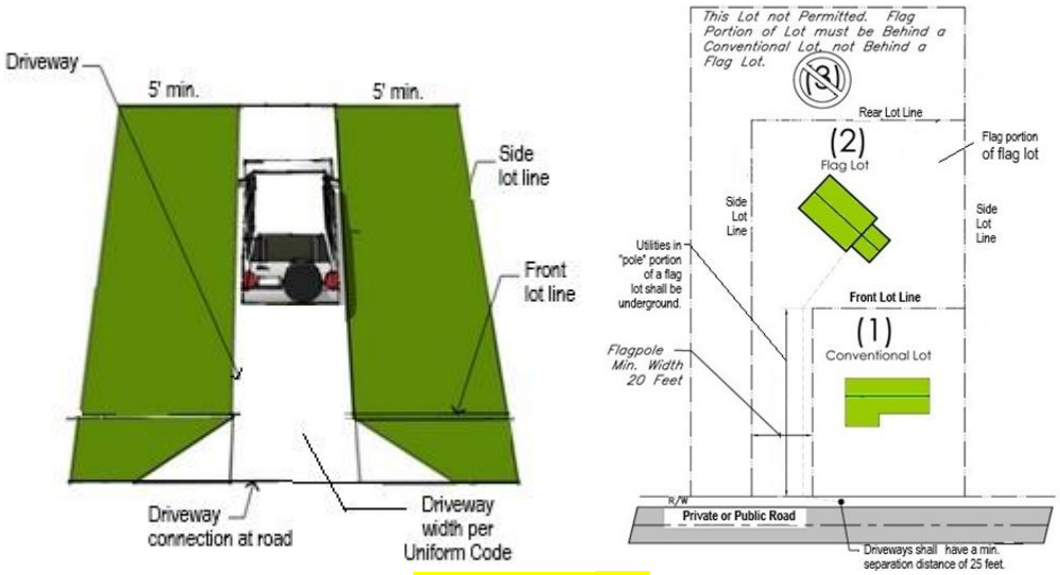


Figure 350-41: Flag Lot

§ 350-34. Mechanical equipment.

A screen shall be installed at mechanical equipment (e.g., HVAC equipment) that is located on the ground or roofs of a structure containing a nonresidential use(s). Such screen shall conceal such equipment from public view unless such equipment is located so as not to be visible from any public way.

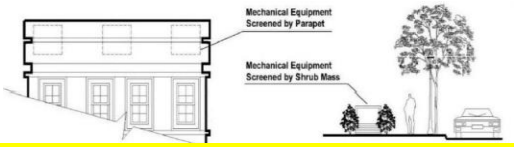


Figure 350-41: Buffer Screening for Mechanical Equipment

§ 350-35. Nonconformities.

A. Purpose. Within the zoning districts established by this chapter or amendments that may be adopted, there exist lots of record, structures, uses and characteristics of a use that were lawful before this chapter or amendments thereto were adopted, but that would be prohibited or restricted under terms of this chapter or future amendments. For these reasons, regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of such nonconforming lots of record, structures and uses are hereby established for the following purposes:

(1) To permit these nonconformities to continue but to minimize significant adverse impacts on contiguous lots of record and development; and

(2) To require a nonconforming use's permanent discontinuance if such use is abandoned or discontinues in operation after a certain period of time; and

(3) To require conformity with this chapter if they are discontinued.

B. Basic rights.

(1) Existing nonconforming lots, structures, or uses may continue in the same form and use so long as the nonconformity remains otherwise compliant with this chapter.

(2) Status as an existing nonconformity runs with the lot, structure and/or use and is not affected by changes in tenancy, ownership, or management.

C. Determination of conformity.

(1) Burden of proof. The owner shall have the burden to provide evidence to the AHJ that a lot, structure and/or use is an existing nonconformity.

(2) Certificate of zoning compliance. The owner shall apply for a certificate of zoning compliance in order to obtain a determination as to whether a particular lot, structure and/or use is conforming or nonconforming. The Town is not responsible to notify an owner of the existence of a nonconformity at his/her/their lot of record.

D. Nonconforming lot of record.

(1) Contiguous nonconforming lots under common ownership. It is recommended but not required that contiguous nonconforming lots of record under common ownership be changed through a resubdivision (i.e., lot line adjustment or lot consolidation/merger) to create conforming lots or reduce the extent of its nonconformity.

(2) Development permitted. Any nonconforming lot of record may still be developed by any use which is permitted principal use or special use within its applicable zoning district. However, any development on said lot shall comply with the applicable provisions of this chapter.

(3) Further subdivision prohibited. A nonconforming lot of record shall not be further subdivided but its lot lines may be changed via a resubdivision (i.e., lot line adjustment or lot consolidation/ merger) pursuant to the Subdivision of Land Law of the Town, as currently in effect and as hereafter amended from time to time,[17] but only if the extent of the nonconformity remains unchanged or is reduced.

E. Nonconforming structures. A nonconforming structure may continue to exist, provided that it remains otherwise lawful, subject to the following conditions:

(1) Any nonconforming structure shall not be enlarged or altered in a manner that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Any nonconforming structure which is intentionally altered to conform to an applicable provision of this chapter shall thereafter conform to such provision and the nonconformity may not be renewed.

(3) Any nonconforming structure may be altered in order to provide accessibility to physically disabled persons, which such accessibility shall conform to the Uniform Code.

(4) Any nonconforming structure may be altered in order to comply or increase its compliance with an applicable provision prescribed in the Energy Code or Uniform Code.

(5) Any nonconforming structure may be altered in order to comply or increase its compliance with any applicable regulation or rule of an AHJ.

(6) If a nonconforming structure is moved for any reason, for any distance, it shall thereafter conform to the applicable provisions of this chapter.

~~(7) If a nonconforming structure is, by any cause, damaged or determined to be an unsafe structure by an AHJ, the structure may be rebuilt to the same building area, building footprint, building height and location on the lot of record with the nonconformity resumed. The rebuilding shall start within one year from the date of the damage and shall be diligently pursued to completion but shall not be greater than four years from the date of damage. Lastly, the rebuilt structure shall be constructed to comply with the Energy Code, Uniform Code and/or any other applicable law.~~

(7) If a nonconforming structure is, by any cause, damaged or determined to be an unsafe structure by an AHJ, the structure may be rebuilt to the same building area, building footprint, building height and location on the lot of record with the nonconformity resumed. The rebuilding shall start within two (2) years of the date of the damage and shall be diligently pursued to completion. Lastly, the rebuilt structure shall be constructed to comply with the applicable standards prescribed in the Energy Code, Uniform Code, and/or any other applicable law.

(a) Exception(s):

[1] The Code Enforcement Officer is authorized to grant one (1) or more extensions for additional periods not to exceed one (1) year but shall not exceed four (4) years from the date of damage. The extension shall be in writing and justifiable cause demonstrated.

[2] The owner of a nonconforming structure located in whole or partially within a public right-of-way (ROW) shall obtain approval from the AHJ.

F. Nonconforming uses. A nonconforming use may continue to exist, provided that it remains otherwise lawful, subject to the following conditions:

(1) Any nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land or gross floor area within a structure.

(2) Any nonconforming use shall not be moved in whole or in part to any other portion of the lot, to another structure, and/or to another lot of record.

(3) An accessory use shall not become a nonconforming use.

(4) Any nonconforming use may be altered to decrease its nonconformity.

(5) Any nonconforming use may be altered in order to provide accessibility to physically disabled persons, which such accessibility shall conform to the Uniform Code.

(6) Any nonconforming use may be altered in order to comply or increase its compliance with an applicable provision prescribed in the Energy Code or Uniform Code.

(7) Any nonconforming use may be altered in order to comply or increase its compliance with any applicable regulation or rule of an AHJ.

(8) Any nonconforming use which is intentionally altered to conform to an applicable provision of this chapter shall thereafter conform to such provision and the nonconformity may not be renewed.

(9) Any nonconforming use shall be terminated if it is abandoned or discontinues in operation for more than one year from the date of such abandonment or discontinuance. Evidence of abandonment or discontinuance of a nonconforming use shall be based on any one of the following factors:

(a) Written documentation indicating lack of ownership from an AHJ.

(b) Written documentation indicating a change in use from an AHJ.

(c) Written documentation indicating discontinuance of essential utilities such as electricity, wastewater and/or water from an AHJ.

(10) If a nonconforming use is, by any cause, damaged to the extent of 50% of its assessed value prior to the date of damage as determined by the AHJ, it shall not thereafter be operated as such.

G. Maintenance and repair. No regulation described within this chapter shall be deemed to prevent the maintenance and repair of a nonconforming lot of record, structure or use.

§ 350-36. Operational performance standards.

The operational performance standards contained herein are applicable to the development and operation of all commercial and/or industrial uses in the Town in order to protect the environment and the public health, safety and general welfare.

A. Air pollution. Any use which causes or tends to cause the release of air contaminants into the atmosphere shall comply with applicable laws, rules and regulations governing such release.

B. Dangerous materials. No material that is dangerous due to explosion, extreme fire haza

C. Electromagnetic radiation and/or interference. No use shall cause or tend to cause electromagnetic radiation and/or interference in such quantities as to violate the accepted levels as established by the FCC, NYS Department of Labor, Division of Safety and Health, or OSHA.

D. Glare and heat. Any use producing intense glare or heat shall be conducted in such a manner so that the glare or heat shall be completely imperceptible from any point along a lot line.

E. Liquid or solid wastes. Any use that causes or tends to cause the discharge or other release of liquid or solid waste shall comply with applicable laws, rules and regulations governing such discharge or release.

F. Noise. No use that causes or tends to cause noise in such quantities as to violate the accepted levels as established by the NYS Department of Labor, Division of Safety and Health or OSHA.

G. Odorous matter. Any use that causes or tends to cause the discharge or other release of odorous matter shall comply with applicable laws, rules and regulations governing such discharge or release.

H. Radiation.

(1) Any use shall comply with the regulations of the U.S. Atomic Energy Commission set out in Chapter 1 of Title 10 of the CFR which apply to by-product material, source material and special nuclear material, as those terms are defined in Section 11(e), (z), and (aa) of the Atomic Energy Act of 1954, as amended [42 U.S.C. § 2014(e), (z), and (aa)], as currently in effect and as hereafter amended from time to time.

(2) No use shall cause radiation emissions that are in violation of the Radiation Control for Health and Safety Act of 1968 (PL 90-602), as currently in effect and as hereafter amended from time to time, or the implementing regulations of the NYSDOH established pursuant thereto.

I. Vibration. Any use that causes or tends to cause ground vibration, which is perceptible without instruments, in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

§ 350-37. Outdoor lighting.

A. Applicability. These standards for outdoor lighting shall apply to any new development containing a commercial and/or industrial use(s). Such standards are intended to provide safe, convenient, and efficient lighting for pedestrians and operators of vehicles in a manner that mitigates significant adverse impacts typically associated with outdoor lighting. Exemption(s):

(1) Holiday decorations.

(2) Illuminated signs that conform with the sign control regulations prescribed in this chapter.

(3) Interior lighting.

(4) Lighting integral to equipment and/or instrumentation, which such lighting was installed by the manufacturer.

(5) Navigation lights (i.e., airports, docks, heliports, radio/television towers, etc.).

(6) Outdoor lighting fixtures existing and operative prior to the effective date of this chapter.

(7) Outdoor lighting used for special events (e.g., carnivals, fairs, weddings, etc.).

(8) Outdoor lighting installed at farm operations.

(9) Outdoor lighting mandated by law.

(10) Outdoor lighting used for theatrical purposes, including but not limited to performance, stage, film production and video production.

(11) Outdoor lighting used to highlight features of public monuments and registered landmark structures.

(12) Streetlights installed at a road and its associated right-of-way.

(13) Temporary emergency lighting (i.e., fire, police, repair workers).

(14) Traffic control signals and devices.

B. Standards. All lighting fixtures designed or placed so as to illuminate any portion of a lot of record shall meet the following requirements:

(1) Fixture (AKA "luminaire"). The light source shall be concealed and shall not be visible from any road or adjacent lot of record. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent lots of record, all lighting fixtures shall be full cutoff fixtures. Only architectural lighting may be directed upward, provided that all other provisions of this section are met.

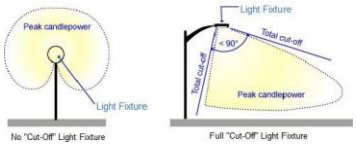


Figure 350-42: Difference in Light Spillage from No Cutoff and Full Cutoff Light Fixtures

(2) Fixture height. Lighting fixtures shall be a maximum of 25 feet in height within parking lots and shall be a maximum of 15 feet in height within nonvehicular pedestrian areas. Exemption(s):

(a) The maximum height of a light fixture for recreational and sports field lighting shall not exceed the maximum building height for a principal building allowed at the applicable zoning district.

(b) Height of light fixtures mandated by an AHJ or law.

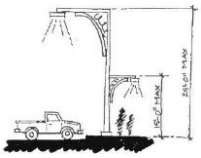


Figure 350-43: Outdoor Lighting, Fixture Height

(3) Limit lighting to periods of need. To eliminate unneeded lighting, outdoor lighting systems are encouraged to include automatic timers, dimmers, sensors, or similar controls that will turn off such lights during daylight hours and when the use is not occupied or open for business.

(4) Outdoor lighting required for specific uses.

(a) Architectural accent lighting. Outdoor lighting fixtures used to accent architectural features, materials, colors, landscaping or art shall be located, aimed and shielded so that light is directed only on those features.

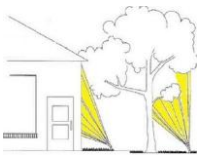


Figure 350-44: Architectural Accent Lighting

(b) Canopy area lighting. All lighting fixtures mounted on the underside of canopies must be "full-cutoff" classified, being either completely recessed/flush in the canopy, or having solid sides on a surface mounted fixture. (Note: Canopy edges do not qualify as shielding.)

Figure 350-45: Canopy Area Lighting

(c) Recreational and sports field lighting.

[1] Design. Outdoor recreational and sports field lighting systems shall be designed and certified by a registered design professional, which such design shall conform to the following industry standards, if applicable:

[a] Energy Code.

[b] IESNA Sports and Recreational Area Lighting (IESNA RP-6), as currently in effect and as hereafter amended from time to time.

[c] IESNA Lighting for Exterior Environments (IESNA RP-33), as currently in effect and as hereafter amended from time to time.

[d] IESNA Guide for Photometric Measurements of Area and Sports Lighting Installations (IESNA LM-5), as currently in effect and as hereafter amended from time to time.

[e] IESNA Light Trespass: Research, Results and Recommendations (IESNA TM-11), as currently in effect and as hereafter amended from time to time.

[f] International Dark Sky Association - Community Friendly Outdoor Sports Lighting Program Guidelines, as currently in effect and as hereafter amended from time to time.

[g] International Dark Sky Association certification and field verification. Outdoor recreational and sports field lighting systems shall obtain the International Dark Sky Association's certification and field verification letters to document compliance with its Community Friendly Outdoor Sports Lighting Program. A copy of these letters shall be submitted to the Town.

[h] National Little League Association Standards and Safety Audit, as currently in effect and as hereafter amended from time to time.

[i] Uniform code.

[2] Maximum height of light fixture. The maximum height of a light fixture for recreational and sports field lighting shall not exceed the maximum building height for a principal building allowed at the applicable zoning district.

Figure 350-46: Recreational and Sports Field Lighting

(d) Security lighting. Outdoor security lighting shall be designed to provide safety to a building's occupant as it pertains to the outdoor illumination of means of egress that is mandated by the Uniform Code. In order to minimize the amount of light trespass, all security lighting fixtures shall be shielded and aimed so that the main beam is directed toward the ground or designated area where security lighting is needed.

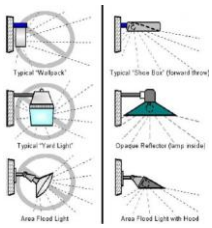


Figure 350-47: Security Lighting

§ 350-38. Outdoor storage.

A. Outdoor storage at a commercial or industrial use.

(1) Area. Outdoor storage shall not occupy more than 40% of the lot area of a lot of record.

(2) Buffer. A buffer shall be installed between areas dedicated to outdoor storage and a contiguous lot of record containing a residential use. However, this requirement shall not be deemed to apply to construction materials stored on a site during a period of construction or agricultural equipment, materials and/or products used in conjunction with a farm operation.

(3) Location. Areas dedicated to outdoor storage shall be located within the building envelope that is permitted for an accessory structure at the applicable zoning district.

Figure 350-48: Outdoor Storage at a Commercial Use

B. Outdoor storage at a residential use.

(1) Recreational vehicles.

(a) Recreational vehicles stored in the open at the exterior property areas of a lot of record shall be owned by an occupant whose permanent place of abode is the subject lot of record.

[1] Exemption(s). Recreational vehicles that are being parked or stored while the owner of such vehicle(s) is:

[a] A full-time student of the immediate family attending a school, college or university;

[b] A member of the United States Armed Forces; or

[c] Suffering from an injury or illness requiring hospitalization or confinement to a bed.

(b) Recreational vehicles shall not have any fixed connections to electricity, gas, wastewater and/or water facilities, nor shall any recreational vehicle be used at any time as habitable space while parked or stored at a lot of record.

(c) Recreational vehicles shall be kept in good repair and in working condition, with current license plate and registration.

(d) Setbacks. A recreational vehicle stored in the open at the exterior property areas of a lot of record shall be set back a minimum of:

[1] A recreational vehicle shall not be stored in the open at the exterior property areas of the front yard of a lot of record. Exemption(s):

[a] One recreational vehicle is permitted to be stored in the open at the exterior property areas of the front yard of a lot of record but shall be located at the driveway for such lot.

[2] A recreational vehicle stored in the open at the exterior property areas of a lot of record shall be set back a minimum of five feet from the rear lot line of such lot.

[3] A recreational vehicle stored in the open at the exterior property areas of a lot of record shall be set back a minimum of five feet from the side lot line of such lot.

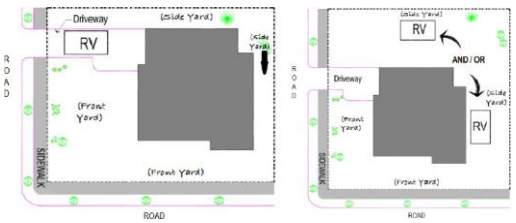


Figure 350-49: Outdoor Storage of Recreational Vehicles

C. Outdoor storage at a vacant lot of record. Outdoor storage at a vacant lot of record shall conform to the regulations pertaining to outdoor storage at a residential use. Exemption(s):

(1) At the Agriculture (AG) and Agricultural Residential (AR) Zoning Districts, one recreational vehicle is permitted to be stored in the open at the exterior property areas of a vacant lot of record but shall conform to the dimensional requirements for a principal building at the applicable zoning district.

(2) At the Agriculture (AG) and Agricultural Residential (AR) Zoning Districts, one recreational vehicle that is stored in the open at the exterior property areas of a vacant lot of record is permitted to have fixed connections to utilities, whether private or public, and it may be used for occasional occupancy solely for recreational purposes by the owner of the vacant lot of record. Such vehicle shall be designed by the

manufacturer for such use and shall not be used for permanent occupancy at any time.

§ 350-39. Parking and loading spaces.

A. Applicability. The standards prescribed in this section shall apply to a new use at a lot of record. Such standards are intended to ensure there are adequate amounts of off-road parking and loading spaces to adequately serve such use(s). Exemption(s):

(1) Any parking or loading space that lawfully existed prior to the effective date of this chapter shall not be subject to the provisions of this section, provided the parking or loading space is not changed. Alterations, expansions, or conversions of uses that would increase the amount of parking or loading spaces required shall conform to these regulations.

B. Loading spaces.

(1) When required. Uses involving the frequent receipt or distribution of materials or merchandise by vehicles shall provide and permanently maintain adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of roads, and thus, help relieve traffic congestion.

(2) Standards.

(a) Every such structure housing such a use and having over 25,000 square feet of gross floor area shall be provided with at least one loading space on the lot of record not less than 12 feet in width, 25 feet in length, and 14 feet in height. One additional loading space of these dimensions shall be provided for every additional 50,000 square feet or fraction thereof of gross floor area in the structure.

(b) Permeable surfaces are preferred but not required at loading spaces for environmental and drainage reasons.

(c) No loading space shall be located at a front yard of a lot of record. Provisions for handling of all freight shall be on those sides of any structure which do not face on any road, whether private or public, unless approved otherwise via the issuance of a special use permit as prescribed by this chapter.

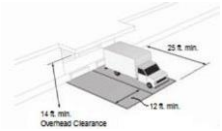


Figure 350-50: Loading Space

C. Parking spaces.

(1) General. In all zoning districts, parking spaces for all uses shall be provided and permanently maintained in accordance with Table 1 - Number of Parking Spaces. Where no requirement is designated and the use is not comparable to any of the listed uses, the minimum parking space(s) shall be determined based upon the capacity of the structure and its associated uses. The designated approval authority may consult with the Town Engineer or other resources in making his or her determination.

Exemption(s):

(a) Parking demand study. Based on the completion and submittal of a parking demand study prepared and sealed by a professional traffic operations engineer (PTOE), the designated approval authority may approve a reduction in the amount of parking from that otherwise required by this section. The parking demand study shall be prepared in accordance with established professional practices, such as but not limited to Parking Generation, current edition, by the ITE.

Table 1 — Number of Parking Spaces

Use	Number of Parking Spaces
Assembly	
Bar, restaurant or tavern	1 per 4 occupants at maximum capacity
Funeral establishment	1 per 6 occupants at maximum capacity
Place of worship	1 per 6 occupants at maximum capacity
All other uses	1 per 6 occupants at maximum capacity
Business	
All uses	1 per 500 square feet of net floor area
Educational	
Elementary school	As determined by the NYSED
Higher education school	Determined by parking demand study
Parochial school	2 per classroom plus 1 per 10 students
Private high school	2 per classroom plus 1 per 10 students
Secondary school	As determined by the NYSED
Hotel/Motel	
Hotel/motel	1 per unit plus 1 per employee during largest working shift
Industrial	
All uses	1 per each employee during largest working shift
Institutional	
Hospice	1 per 4 beds plus 1 per employee during largest working shift
Hospital	Determined by parking demand study

Table 1 — Number of Parking Spaces	
Use	**Number of Parking Spaces**
Medical clinic, medical office	1 per examination room plus 1 per employee during largest working shift
Medical marijuana dispensary	Determined by parking demand study
Veterinary Facility	1 per examination room plus 1 per employee during largest working shift
Mercantile	
All uses	1 per 350 square feet of net floor area
Recreational	
Camp, children's overnight	Determined by parking demand study
Camp, summer day	Determined by parking demand study
Recreational facility	Determined by parking demand study
Summer day cabins	Determined by parking demand study
All other uses	Determined by parking demand study
Residential	
Bed-and-breakfast dwelling	1 per sleeping room plus any dwelling unit requirements
Boardinghouse	1 per sleeping room
Cottage housing development	2 per cottage
Dormitory, fraternity and/or sorority	Determined by parking demand study
Dwelling unit	2
Home occupation	2 plus any dwelling unit requirements
Manufactured housing community	2 per manufactured housing community site
Storage	
All uses	1 per employee during largest working shift
Vehicle Related Uses	
Vehicle repair station	2 plus 1 per bay
Vehicle service station	1 per 350 square feet of net floor area
Vehicle sales	4 plus 1 per employee during largest working shift
Vehicle rental	1 per 1,000 square feet of net floor area

(2) Accessible spaces. Accessible parking spaces and passenger loading zones shall be provided in accordance with the ADA Standards for Accessible Design, as currently in effect and as

hereafter amended from time to time, and/or the Uniform Code.

(3) Combination of uses. Where there is a combination of uses on a lot of record, the required number of parking spaces shall be the sum of that found for each use.

(4) Location of lot. The parking spaces required by this section shall be provided on the same lot of record as the use. Exemption(s):

(a) Municipal parking. Uses within 500 feet of a municipal parking lot or designated on-road parking may be wholly or partially exempt from the parking space requirements at a lot of record if approval is obtained by the AHJ of such parking lot or on-road parking.

(b) Shared parking. Parking space requirements for two or more uses that are located on the same lot of record or a contiguous lot of record may be allowed to share parking spaces if a shared parking agreement, which shall be approved by the Town Attorney, is executed and such agreement is recorded at the Office of the County Clerk against the deed(s) of affected lot(s) of record.

(5) Parking spaces at a residential use. Parking spaces at a lot of record whose principal use is a residential use may be provided within a carport, private garage or a similar type of accessory structure designed for vehicular storage or in the open at a designated driveway associated with such use.

Figure 350-51: Parking Spaces at a Residential Use

(6) Standards. Parking spaces shall be installed and permanently maintained in accordance with Table 2 - Dimensional Standards of Parking Spaces.

Type of Parking Angle

Table 2 — Dimensional Standards of Parking Spaces

Type of Parking Space	Angle of Parking Space (degrees)	Length of Parking Space	Width of Parking Space (feet)	Aisle Width (feet)
Traditional	90°	19 feet	9	24
Traditional	60°	21 feet	9	18
Traditional	45°	19 feet 10 inches	9	13
Accessible	90°	19 feet	13	24
Accessible	60°	21 feet	13	18

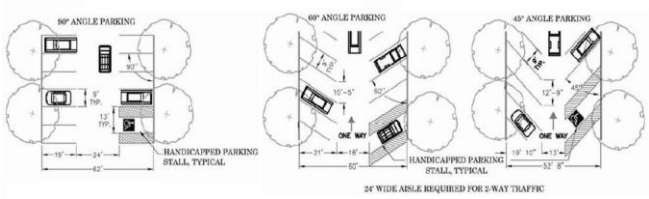


Figure 350-52: Dimensional Standards of Parking Spaces

(a) Parking and loading spaces shall be set back a minimum of 10 feet from a public right-of- way unless approved otherwise by the AHJ.

(b) Parking spaces for residential uses shall be located on the same lot of record as the dwelling unit they are intended to serve.

(c) Parking spaces for nonresidential uses shall be located on the same lot of record unless a shared parking agreement is approved by the Town Attorney as well as it being located within 500 feet of the structure it is intended to serve.

(d) Permeable surfaces are preferred but not required at parking spaces for environmental and drainage reasons.

D. Parking lots.

(1) Design. Parking lots for a new development containing a nonresidential use(s) shall be grouped in blocks of parking spaces of no more than 50 contiguous parking spaces. These spaces may be in a linear row or two or more parallel rows. A landscaped area of at least 12 feet wide shall separate parking areas.

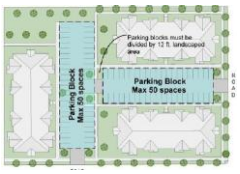


Figure 350-53: Example of a Parking Lot

(2) Landscaping. Any new development containing a nonresidential use(s) requiring more than 50 parking spaces shall be required to have the following amount of landscaping in parking lots:

(a) For parking lots with fewer than 150 parking spaces, landscaping islands shall be a minimum of 10% of the parking area.

(b) For parking lots with 150 parking spaces or more, landscaping islands shall be a minimum of 20% of the parking area.

(c) Landscape islands. The size and number of landscape islands shall be required as identified below. These requirements shall not apply when a row of parking spaces is located under a structure or at the end of a parking row that coincides with a required front, side or rear yard:

[1] A parking row containing fewer than 15 contiguous parking spaces shall be terminated by a landscape island with a minimum dimension of nine feet in width by

18 feet in length.

[2] A parking row containing between 15 and 30 contiguous parking spaces shall be:

[a] Terminated by a landscape island with a minimum dimension of 12 feet in width by 18 feet in length, which is illustrated as Option A in the below figure; or

[b] Terminated by a landscape island with a minimum dimension of nine feet in width by 18 feet in length and shall contain one landscape island in the middle of the row with a minimum dimension of nine feet in width by 18 feet in length, which is illustrated as Option B in the below figure.

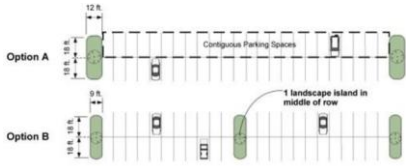


Figure 350-54: - Example of Landscape Island(s) at Parking Lot

(3) Setback(s). In any off-road parking area, other than that provided for a single- or two-unit dwellings, no vehicle shall be allowed to park closer than five feet to any lot line. However, any buffer requirement(s) prescribed in this chapter shall be satisfied and may be more restrictive.

§ 350-40. Principal use.

A. Lakefront Residential (LRES) Zoning District. In the Lakefront Residential (LRES) Zoning District, it is prohibited to have more than one principal use at a single lot of record. Exemption(s):

(1) A lot of record that contains a single-unit dwelling as well as farm operation excluding livestock.

B. Other zoning districts. Except for the Lakefront Residential (LRES) Zoning District, more than one principal use (AKA "mixed use development") but not greater than three principal uses may be operated at a lot of record, provided it conforms to all of the following:

(1) The uses proposed at a mixed use development are authorized at the zoning district it is proposed to be located.

(2) The proposed uses at a mixed use development conform to the standards prescribed in this chapter.

(3) The mixed use development conforms to the applicable requirements of the Uniform Code, such as but not limited to the installation of fire rated assemblies, fire protection systems and/or fire separation distances.

(4) At a mixed use development, a lot of record shall have a minimum lot area that equals the minimum lot area mandated by the subject zoning district times by the number of proposed uses. For example, an owner of a lot of record at the Agricultural Residential Zoning District proposes two distinct principal uses. This chapter prescribes that the minimum lot area for such zoning district is two acres. Therefore, such lot of record shall have a minimum lot area of four acres, which is the product of two acres times by two proposed uses. Exemption(s):

(a) A lot of record whose principal uses are a farm operation and single-unit dwelling.

§ 350-41. Projections in yards.

A. Accessible ramps and lifts. Accessible ramps and lifts shall be exempt from yard requirements. However, accessible ramps and lifts shall not encroach on any public way or contiguous lot of record. Furthermore, accessible ramps and lifts shall not be constructed in such a manner as to create a hazard to the general public. Lastly, such ramp and lift shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

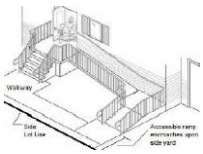


Figure 350-55: Accessible Ramp Encroachment upon Yard(s)

B. Architectural features. Architectural features (e.g., sills, belt courses, pilasters, leaders, cornices, eaves and other types of ornamental features) may extend not more than two feet into any required yard. Lastly, such projection shall be separated from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

C. Bay. Bays, including their cornices and eaves, may extend not more than two feet into any required yard, provided that the sum of such projections on any building elevation shall not exceed 1/4 the length of such elevation. However, bays shall not encroach on any public way or contiguous lot of record. Furthermore, bays shall not be constructed in such a manner as to create a hazard to the general public. Lastly, such bay shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

D. Chimneys. Chimneys or other types of exhaust systems may extend not more than three feet into any required yard. Lastly, such projection shall be separated from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

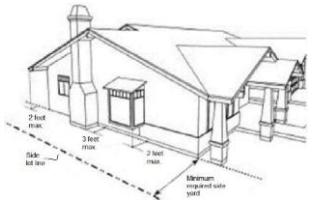


Figure 350-56: Architectural Features, Bay and Chimney Encroachment upon Yard(s)

E. Emergency standby generator. An emergency standby generator serving a principal building and/or accessory structure at a lot of record shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code, the manufacturer's installation instructions or five feet, whichever requirement is more restrictive.

F. HVAC. An HVAC unit serving a principal building and/or accessory structure at a lot of record shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code, the manufacturer's installation instructions or five feet, whichever requirement is more restrictive.

G. Means of egress. A means of egress shall be exempt from yard requirements. However, any type of means of egress shall not encroach on any public way or contiguous lot of record. Furthermore, a means of egress shall not be constructed in such a manner as to create a hazard to the general public. Lastly, such means of egress shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

H. Temporary agricultural building. A temporary agricultural building (e.g., temporary greenhouse) shall be exempt from yard requirements. However, a temporary agricultural building shall not encroach on any public way or contiguous lot of record. Furthermore, a temporary agricultural building shall not be constructed in such a manner as to create a hazard to the general public. Lastly, such agricultural building shall be set back from a contiguous lot line pursuant to the applicable provisions of the Uniform Code or five feet, whichever requirement is more restrictive.

§ 350-42. Property maintenance.

A. The maintenance of all lands, structures and/or uses shall be regulated by the Uniform Code or any other applicable law.

B. Blighted premises.

(1) General. It shall be unlawful for an owner of a lot of record to allow, create, maintain, or cause to be created or maintained any blighted premises.

(2) Registration permit. An owner of a blighted premises shall obtain a registration permit as prescribed in this chapter.

C. Boarding standards.

(1) A door or window at a structure shall not be boarded except under the following circumstances:

(a) A door or window may be boarded for a period of time not to exceed six months due to a disaster or emergency related event (e.g., fire or hurricane).

(b) A door or window may be boarded for a period of time not to exceed six months due to a replacement of a door, window or portion thereof, such as but not limited to a broken pane of glass.

(c) A structure required to be boarded to protect life and safety as determined by an AHJ.

(2) If a door or window is boarded, it shall be boarded in a workmanlike manner and shall continue to appear as a window or door.

Figure 350-57: Prohibited Type of Boarding

Figure 350-58: Permitted Type of Boarding

D. Shoreline structures. A shoreline structure shall comply with any applicable law as well as be maintained in good repair and structurally sound.

§ 350-43. Steep slopes.

The disturbance of a steep slope shall be regulated by the Protection of Steep Slopes Law of the Town, as currently in

effect and as hereafter amended from time to time.[18]

§ 350-44. Streams.

A. Intent. The intent of this section is to prevent loss of life and property due to flooding and erosion by establishing requirements for minimum setbacks between perennial streams and principal buildings or accessory structures that are located at a lot of record.

B. Applicability. The requirements of this section apply to all new principal buildings and/or accessory structures proposed to be located at a lot or record, which also contains a perennial stream, in any zoning district of the Town. The replacement, renovation or restoration of existing principal buildings and/or accessory structures located within the minimum setback between perennial streams and such buildings and/or structures shall be permitted under the following conditions:

(1) The existing principal building's and/or accessory structure's footprint within such setback is in the same location; and

(2) The existing principal building's and/or accessory structure's encroachment into such setback shall not be made more nonconforming by such replacement, renovation or restoration.

C. Setback.

(1) Measurement. The setback from perennial streams to principal buildings and/or accessory structures shall be measured from the closest stream bank of such stream to the building line of such building and/or structure.

Figure 350-59: Setback from Perennial Streams

(2) Minimum setback. The minimum setback between perennial streams and principal buildings and/or accessory structures shall be 10 feet. Exemption(s):

(a) Principal buildings and/or accessory structures may encroach upon such setback only if flood control, stormwater management structures, and/or stream bank stabilization measures are designed and sealed by a registered design professional.

§ 350-45. Temporary structures or uses.

A. Compliance required. Temporary structures and/or uses shall comply with the applicable regulations of this chapter as it pertains to permanent structures and/or uses. Exemptions:

(1) Agricultural business that is temporary in nature (e.g., holiday related seasonal sales, farm stand, etc.).

(2) Temporary agricultural building.

Figure 350-60: Temporary Agricultural Building

(3) Temporary emergency and disaster shelter when approved by an AHJ.

Figure 350-61: Temporary Emergency and Disaster Shelter

B. Standards.

(1) Any temporary use shall be a permitted principal use allowed within the applicable zoning district.

(2) Any temporary structure shall be completely removed within five business days upon the termination of the temporary use.

(3) Any temporary use at a lot of record shall have adequate on-site parking, ingress, egress, traffic control, garbage/rubbish containers, fire protection, and sanitary facilities to host such a use.

(4) Any temporary structure and/or use shall comply with the Uniform Code or any other applicable law.

(5) Any temporary use of hazardous material or disposal of hazardous waste is prohibited.

(6) Any temporary use shall not cause external effects, such as but not limited to offensive odors, increased lighting or glare, dust, smoke, noise or vibration detectable to normal sensory perception at the property line of a contiguous lot of record.

§ 350-46. Unobstructed sight distance.

A. Height of unobstructed sight distance. No structure shall be located in the visibility triangle that shall obstruct the visibility of drivers between a height of three feet and 10 feet unless approved otherwise by the AHJ.

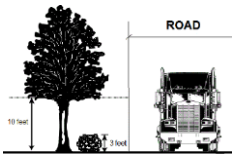


Figure 350-62: Height of Unobstructed Sight Distance

B. Visibility triangle. At an intersection of two or more public roads, the visibility triangle is the triangular area formed by the edge of a public road, which shall not include its associated right-of- way, and a line connecting them at points a minimum of 30 feet from the intersection of such edge of road. Depending on the curvature and grade of intersecting public roads, the AHJ may require a larger triangular area.

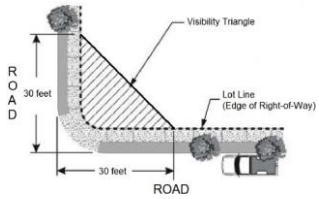


Figure 350-63: Visibility Triangle

§ 350-47. Utility lines.

~~All on-site utility lines shall be placed underground. However, nothing contained in this section shall prohibit:~~

~~A. The temporary aboveground location of utility lines during construction or emergency conditions.~~

~~B. Renewal, reinstallation, relocation, replacement, repair or maintenance of existing aboveground utility lines; or installation of aboveground utility lines in location predominantly served by existing aboveground utility lines.~~

~~C. Aboveground utility lines where underground location would not be feasible due to soil conditions, physical obstructions or terrain.~~

~~D. Above-grade location of transformers, service or meter pedestals and similar accessory installations, including any aboveground utility lines necessarily or customarily extending above grade in an underground utility line system.~~

A. Compliance with standards and law. The installation of any utility within a lot of record shall comply with the standards of the applicable public utility company / provider (e.g., NYSDEG, Town sewer and water districts, etc.) as well as any applicable law (e.g., Uniform Code).

B. Underground utilities required. The installation of any utility within a lot of record shall be placed underground. However, nothing contained in this section shall prohibit the following:

(1) The temporary aboveground location of a utility during construction or emergency conditions.

(2) Renewal, installation, relocation, replacement, repair and/or maintenance of an existing aboveground utility; or installation of an aboveground utility in a location predominantly served by existing aboveground utilities.

(3) Aboveground utilities where underground location would not be feasible due to soil conditions, physical obstructions, terrain, and/or other restraining conditions as determined by an AHJ.

(4) Aboveground location of transformers, service or meter pedestals, and similar utility appurtenances, including any portion of a utility necessary and customarily extending aboveground in an underground utility system.

C. Waterflow alarm for sprinkler system. An approved audible waterflow alarm, located on the exterior of a building at an approved location, shall be connected to each sprinkler system. Where a fire alarm system is installed, the actuation of the sprinkler system shall actuate the building's fire alarm system.

(1) Exception(s):

(a) Alternate equipment and methods shall be permitted if it complies with all of the following:

[1] Are not specifically prohibited by the Uniform Code.

[2] Not less than equivalent of that prescribed herein in quality, effectiveness, durability, and safety as determined by the Code Enforcement Officer.

§ 350-48. Yards.

Yards define the minimum open space to be provided along the perimeter of a lot of record. Yards are the minimum setback distance required between a lot line and a building line as set forth in the zoning district where such lot of record is located. Lastly, every part of a required yard shall not contain structures except where:

A. Projections at principal buildings or accessory structures that are permitted to encroach as prescribed by this chapter;

B. Any building or structure that is permitted or has been granted a variance to encroach as prescribed by this chapter.

ARTICLE VI

Standards applicable to specific lands, structures and/or uses

§ 350-49. Accessory dwelling unit.

A. Intent. The Town recognizes that there are many benefits associated with the creation of legal accessory dwelling units on a lot of record. These benefits include but are not limited to:

(1) Accessory dwelling units at owner occupied lots of record foster better property maintenance and neighborhood stability.

(2) Accessory dwelling units provide the opportunity for increased security and companionship for older or other owners who fear crime and personal accidents.

(3) Accessory dwelling units help meet the growth management goals of the Comprehensive Plan by creating more housing opportunities without the need to subdivide existing lots of record.

(4) Accessory dwelling units enhance the local property tax base.

(5) Benefiting older and younger owners, single parents and the disabled.

(6) Increasing the supply of affordable housing without government subsidies.

(7) Providing a cost-effective means of accommodating development by making better use of existing infrastructure and reducing the need to provide new infrastructure.

(8) Providing a means for adult children to give care and support to a parent in a semi-independent living arrangement.

(9) Providing owners with extra income to help meet the rising cost of home ownership.

(10) Reducing the incidence of housing deterioration and blight by preventing absentee ownership of property.

(11) Reducing the number of applications for subdividing lots of record in order to provide housing for family members.

B. Construction, fire prevention and maintenance.

(1) The design, color, material and texture of the exterior building surfaces utilized at an accessory dwelling unit shall be substantially the same as the principal building. Furthermore, an accessory dwelling unit shall be designed and classified as an independent single-unit dwelling and such unit shall conform to the standards prescribed in this chapter for dwelling units.

(2) An accessory dwelling unit shall comply with the applicable provisions of the Energy Code, Uniform Code and/or any other local, state and/or federal law.

(3) The net floor area of an accessory dwelling unit shall not exceed 1,500 square feet.

C. Deed restrictions. Prior to the authorization of an accessory dwelling unit by the Town, the owner shall provide written proof to the designated approval authority that a covenant setting forth all of the following requirements, which shall be in a form satisfactory to the Town Attorney, and such covenant has been recorded in the Office of the County Clerk:

(1) A reference to the deed under which the lot of record was acquired by the owner.

(2) A restriction that the accessory dwelling unit shall not be sold or owned separately, and the lot of record upon which the unit is located shall not be subdivided in any manner that would authorize such sale or ownership.

(3) A restriction that the accessory dwelling unit is an independent dwelling unit only so long as principal building is occupied by the owner as his or her permanent place of abode in accordance to the records of the Town Assessor.

(4) The restrictions described herein shall be binding upon any successor in ownership of the lot of record.

D. Maximum number per lot of record. In no case shall more than one accessory dwelling unit be located on a lot of record.

E. Owner occupancy required. The owner of the lot of record in which the accessory dwelling unit is located, or, if the owner of such lot of record is a trust, the grantor of the trust shall occupy the principal building as their permanent place of abode, except for bona fide temporary absences, in accordance to the records of the Town Assessor. If, thereafter, the owner fails to comply with this requirement, the accessory dwelling unit shall change its use to another type of accessory use that is permitted at the applicable zoning district. For clarification purposes, "owner occupancy" means the owner, as reflected in the records filed at the office of the County Clerk, or, if such owner is a trust, the grantor of such trust makes his/her/their legal residence at the applicable lot of record, as evidenced by voter registration, vehicle registration, or other approved means. Exemption(s):

(1) Caretaker quarters as permitted at a specific use as prescribed by this chapter.

F. Principal building/use. An accessory dwelling unit shall be located on a lot of record whose principal building/use is only one, existing, single-unit dwelling. Exemption(s):

(1) Caretaker quarters as permitted at a specific use as prescribed by this chapter.

G. Sale. The sale of an accessory dwelling unit that is separate from the sale of the lot of record, including all of the accessory structures and principal buildings located on such lot, is prohibited.

H. Subdivision. The owner shall acknowledge, in writing, which is signed in the presence of a notary public, that he/she/they understand and agree that should a subdivision of the lot of record later be proposed, all parcels illustrated in said subdivision shall comply with the minimum requirements of this chapter, including but not limited to the dimension requirements of a lot of record and the yard requirements for principal buildings and accessory structures.

I. Vehicular access. An accessory dwelling unit shall utilize the same vehicular access that serves the principal building, unless such unit is located on a corner lot or double frontage lot for which a secondary access is permitted by an AHJ.

§ 350-50. Accessory living quarters.

Accessory living quarters shall conform to the standards pertaining to an accessory dwelling unit except for the following:

A. Construction, fire prevention and maintenance. Accessory living quarters shall not be designed as a dwelling unit since such quarters are prohibited to have a kitchen. Furthermore, accessory living quarters shall contain no more than one bedroom.

B. Net floor area. The net floor area of accessory living quarters shall not exceed 1,000 square feet.

C. Occupancy. Accessory living quarters shall only be occupied by a person(s) who is part of the group of persons occupying the principal building. For clarification purposes, the rental of a room(s) to a person(s) who is not part of a single group occupying the principal building is deemed transient by the Uniform Code since each room is occupied similar to those in a nonresidential transient occupancy, such as, but not limited to, a hotel or motel.

§ 350-51. Adult entertainment establishment.

This use shall be regulated by the Adult Entertainment Establishment Law of the Town, as currently in effect and as hereafter amended from time to time.[19]

§ 350-52. Aeronautical related use.

A. Access. Access to an aeronautical related use shall only be taken from a public road.

B. Location. An aeronautical related use shall be located at a lot of record that is contiguous to a lot of record whose principal use is a county airport or heliport.

§ 350-53. Agricultural business.

A. Access. Access to an agricultural business shall only be taken from a public road.

§ 350-54. Agricultural fairground.

A. Access. Access to an agricultural fairground shall only be taken from a public road.

B. Caretaker quarters. A caretaker quarters may be provided within a principal building as an accessory dwelling unit or on the lot of record as a detached single-unit dwelling.

C. Compliance with the Sanitary Code. An agricultural fairground shall comply with Part 7, specifically Subpart 7-5, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

D. Minimum lot area. An agricultural fairground shall be located on a lot of record with a lot area of 25 acres or more.

§ 350-55. Agricultural service use.

A. Access. Access to an agricultural service use shall only be taken from a public road.

§ 350-56. Agricultural tourism.

A. Access. Access to an agricultural tourism use shall only be taken from a public road.

§ 350-57. Amateur radio communications tower.

A. Intent. The provisions of this section are to establish regulations for the siting of amateur radio communications towers in order to accommodate such towers as required by the FCC PRB-1, 101

FCC 2d 952 [September 16, 1985]. Such regulations have been created to reasonably accommodate the amateur radio service and to establish the minimum practicable regulation deemed necessary to accomplish the Town's legitimate purpose described in Article 16 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time, which is to promote the health, safety, morals, and/or the general welfare of the community.

B. Specific definitions. The following terms are specific to the use regulated by this section:

AMATEUR RADIO SERVICE — The amateur service, the amateur satellite service and the radio amateur civil emergency service.

COMPELLING COMMUNICATIONS NEED — A need for relief based upon the inability of the applicant to obtain reasonable communications goals due to engineering or technical limitations or physical characteristics, such as but not limited to trees or structures located on the subject and adjacent lots of record that obstruct or significantly impede communications to and from the subject lot of record.

LICENSED AMATEUR COMMUNICATIONS — Amateur radio operations, also known as the "amateur radio service," as regulated and licensed by the FCC pursuant to 47 CFR Part 97.

C. Application. In addition to the application requirements described within this chapter, applications for the installation of an amateur radio communications tower shall comply with the following application requirements and the more restrictive requirement shall apply in cases of conflict:

(1) A scaled plan or drawing of the proposed amateur radio communications tower, with design data, certified by a professional engineer or the manufacturer that such structure meets or exceeds the current specifications of the Electronics Industry Association guidelines or the Telecommunications Industry Association guidelines.

(2) Satisfactory evidence that the amateur radio communications tower shall be constructed to conform to the applicable provisions prescribed within the Uniform Code (e.g., fire separation distance, wind load, etc.).

(3) A site plan illustrating the lot of record and its dimensions, any and all structures and the locations thereof, any and all easements and the locations thereof, and the location of the amateur radio communications tower and its setback from all easements, lot lines and/or structures.

(4) Any application for an amateur radio antenna communications tower shall include written evidence that the owner is an amateur radio operator licensed by the FCC. Exemption(s):

(a) If the FCC license holder and operator is not the owner but an occupant at the lot of record, written evidence that the occupant is an amateur radio operator licensed by the FCC and the owner shall sign the application, which both individuals shall be bound by the regulations of this section.

D. Standards.

(1) Abandonment and removal. The owner of a lot of record that contains an amateur radio communications tower agrees to remove such structure and to restore the land to its original state upon selling such lot of record or when the owner or occupant no longer holds a valid FCC license to operate as an amateur radio operator.

(2) Aesthetics.

(a) No amateur radio communications tower shall be artificially lighted unless required by the FAA or any other AHJ.

(b) No signage shall be permitted upon an amateur radio communications tower other than those required by the FCC, FAA, manufacturer for safety and part replacement identification purposes or signs mandated by an AHJ.

(3) Height.

(a) Maximum height. An amateur radio communications tower that is located at a lot of record shall not exceed 70 feet.

(b) Special consideration. In considering an application for an area variance as it pertains to an amateur radio communications tower exceeding the permitted height, special consideration shall be accorded to those licensed in the Amateur Radio Service by the FCC. Such consideration shall ensure that such tower's height, as approved by the designated approval authority, achieves the applicant's need for effective communications but does not create a significant adverse impact to health, safety and aesthetic considerations. In establishing the permitted height, the designated approval authority shall consider the submitted compelling communications need regarding radio signal propagation. It is the responsibility of the applicant to supply such compelling communications need to the designated approval authority to substantiate and justify the proposed height for an amateur radio communications tower.

(4) Industry standards. All amateur radio antenna communications towers, including any antennas and other appurtenances, shall be constructed, operated, maintained, repaired, provided for the removal of, modified or restored in strict compliance with applicable industry standards, such as but not limited to NATE, NESC and the NEC.

(5) Maintenance. All amateur radio antenna communications towers, including any antennas and other appurtenances, that have, due to damage, lack of repair, or other circumstances, become unstable, lean significantly out-of-plumb, or pose a danger of collapse shall be removed or brought into a state of good repair. Such repair work shall be prepared and sealed by a registered design professional.

(6) Maximum number of structures. No more than one amateur radio communications tower shall be allowed per lot of record. Exemption(s):

(a) Upon showing of compelling communications need, the designated approval authority may approve additional amateur radio communication towers at a lot of record.

(7) Operation.

(a) An amateur radio communication towers shall be maintained in operational condition meeting all of the requirements of this section at all times, subject to reasonable maintenance and repair. If such tower becomes inoperative, damaged, unsafe, or violates a standard, the owner shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by 90 days.

(b) If an amateur radio communications tower is not repaired or brought into compliance within the time frame stated above, the Town may, after a public hearing, order remedial action or revoke any issued certificate and/or permit, and order removal of such tower

within 90 days.

(8) Setbacks.

(a) No part of an amateur radio communications tower, including stays, guy or supporting wires as well as ground anchors, shall be in violation of the relevant yard requirements of the applicable zoning district.

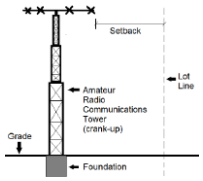


Figure 350-64: Amateur Radio Communications Tower and Yard Requirements

(b) No part of an amateur radio communications tower, including stays, guy or supporting wires as well as ground anchors, shall be located in the front yard at a lot of record.

(c) No part of an amateur radio communications tower, including stays, guy or supporting wires as well as ground anchors, shall be located on any easement.

(9) Type of tower.

(a) Hamlet, Lakefront Commercial and Lakefront Residential Zoning Districts. Due to aesthetic concerns, crank-up towers (e.g., US Tower TMM series compact crank-up towers) shall be the only permitted type of amateur radio communications tower at the Hamlet, Lakefront Commercial and Lakefront Residential Zoning Districts. At such tower's retracted height, the visual impact is reduced to a minimum and antenna servicing is made easier. Lastly, an amateur radio communications tower that is located within such zoning districts shall be fully retracted when not transmitting.

(b) Other zoning districts. Any type of tower specifically manufactured as part of an amateur radio communications tower shall be permitted. Examples of various towers are crank-up towers, lattice towers with guy wires, monopole towers and other types of self-supporting towers.

Figure 350-65: Amateur Radio Antenna Support Structure (Crank-Up Tower)

§ 350-58. Bed-and-breakfast dwelling.

A. Access.

(1) Bedrooms. Access to the sleeping rooms shall be provided through the main entrance to the bed-and-breakfast dwelling. In addition, no sleeping rooms for transient use shall be located above the second story of a bed-and-breakfast dwelling.

(2) Public road. Access to a bed-and-breakfast dwelling shall only be taken from a public road.

B. Accessory dwelling units. Accessory dwelling units are not permitted in conjunction with a bed-and- breakfast dwelling.

C. Accessory living quarters. Accessory living quarters are not permitted in conjunction with a bed-and- breakfast dwelling.

D. Cooking facilities prohibited. No cooking facilities (e.g., microwave) shall be provided or permitted in any sleeping room.

E. Meals. Accommodations at the bed-and-breakfast dwelling shall include breakfast for the guests and included in the charge for the room. No meal other than breakfast may be prepared on the premises for the guests. The owner shall comply with all federal, state and local requirements for the preparation, handling and serving of food.

F. Minimum floor area. A bed-and-breakfast dwelling shall have a minimum gross floor area of 2,000 square feet.

G. Minimum lot area. A bed-and-breakfast dwelling shall be located on a lot of record that is compliant with the minimum lot area of the applicable zoning district but shall not be less than two acres.

H. Owner's residency required. The owner shall have his or her permanent place of abode at the bed- and-breakfast dwelling.

I. Parking.

(1) One parking space shall be provided for each sleeping room, which shall be in addition to those required for the dwelling unit.

(2) All parking spaces shall be located at the rear and/or side yards, and be designed to facilitate the exiting of vehicles in a forward motion from the lot of record onto the contiguous road.

(3) A buffer shall be installed between all parking spaces and a contiguous lot of record that contains an existing residential use.

§ 350-59. Camp, children's overnight.

A. Access. Access to a children's overnight camp shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided at a children's overnight camp as an accessory use. A caretaker quarters shall only be occupied by an employee(s) of said camp and may be located within a principal building that may be designed as a dwelling unit or as a sleeping unit.

D. Compliance with the American Camping Association (ACA) standards. A children's overnight camp shall comply with the American Camping Association (ACA) standards. Where, in any specific case, conflicts occur between provisions of this chapter and such standard, the more restrictive requirement shall govern.

E. Compliance with the Sanitary Code. A children's overnight camp shall comply with Part 7, specifically Subpart 7-2, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

F. Design. The design of all camp structures and/or uses, including site layout, building orientation and accessory structures and/or uses, shall be directed inward with minimal visibility to public rights-of- way and contiguous lots of record.

G. Minimum lot area. A children's overnight camp shall be located on a lot of record with a lot area of 20 acres or more.

H. Summer camp cabin. A summer camp cabin may be provided at a children's overnight camp as an accessory use, but it shall comply with 10 NYCRR, Chapter I, Part 7, Subpart 7-2, Section 7-2.12 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time, and any other applicable law (e.g., Uniform Code). Lastly, the occupants of this cabin shall be registered and/ or employed at a children's overnight camp.

§ 350-60. Camp, summer day.

A. Access. Access to a summer day camp shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided at a summer day camp as an accessory use. A caretaker quarters shall only be occupied by an employee(s) of said camp and may be located within a principal building that may be designed as a dwelling unit or as a sleeping unit.

D. Compliance with the American Camping Association (ACA) standards. A summer day camp shall comply with the American Camping Association (ACA) standards. Where, in any specific case, conflicts occur between provisions of this chapter and such standard, the more restrictive requirement shall govern.

E. Compliance with the Sanitary Code. A summer day camp shall comply with Part 7, specifically Subpart 7-2, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

F. Design. The design of all camp structures and/or uses, including site layout, building orientation and accessory structures and/or uses, shall be directed inward with minimal visibility to public rights-of- way and contiguous lots of record.

G. Minimum lot area. A summer day camp shall be located on a lot of record with a lot area of 20 acres or more.

§ 350-61. Campground.

A. Intent. The provisions of this section are enacted for the purpose of protecting public health, safety and general welfare of residents and transients in this Town, to prevent overcrowding and unsanitary conditions, and to establish minimum standards for the operation of campgrounds in the Town.

B. Specific definitions. The following terms are specific to the use regulated by this section:

CAMPING UNIT — This term shall bear the same meaning as "camping unit" that is defined in 10 NYCRR Part 7, Subpart 7-3, as currently in effect and as hereafter amended from time to time.

CAMPSITE — This term shall bear the same meaning as "campsite" that is defined in 10 NYCRR Part 7, Subpart 7-3, as currently in effect and as hereafter amended from time to time.

C. Compliance with NFPA 1194. A campground shall comply with NFPA 1194, Recreational Vehicle Parks and Campgrounds, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such standard, the more restrictive requirement shall govern.

D. Compliance with the Sanitary Code. A campground shall comply with Part 7, specifically Subpart 7-3, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time, regardless of its applicability. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

E. Standards.

(1) Access. Access to a campground shall only be taken from a public road.

(2) Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

(3) Campsites. Boundaries of campsites shall be well-defined and permanently marked. In addition, campsites shall meet the following requirements:

(a) The density of campsites in a campground shall not exceed an average of 10 campsites per acre, inclusive of service roads, service buildings and accommodations, recreational areas, etc.

(b) Each campsite, which shall include its parking space, shall provide a minimum of 2,500 square feet of space and shall not be less than 30 feet at its narrowest point.

(c) Each campsite shall be identified by number and section. Camping units within a campground shall be required to located within the designated campsites. It shall be unlawful for more than one camping unit to occupy a single campsite.

(d) Each campsite shall be well-drained, with no pooling of water, and shall provide sufficient open and graded space for the accommodation of camping units.

(e) Each campsite shall provide a parking space for a vehicle, which such space shall not interfere with the convenient and safe movement of traffic at the campground.

(4) Caretaker quarters. A caretaker quarters may be provided within a principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

(5) Interior roads. An interior road located within a campground shall be designed and certified as fire apparatus access roads pursuant to the Uniform Code.

(6) Length of stay. The maximum continuous habitation allowed in a campground is seven continuous months. After seven months, the camper shall vacate from that campground for a

minimum of five continuous months.

(7) Lot area. A campground shall be located on a lot of record with a lot area of 20 acres or more.

(8) Management.

(a) In every campground, there shall be an attendant or person in charge that is responsible for the following:

[1] Keep a register of all campers, which shall include the minimum information:

[a] Names and addresses of each camper.

[b] Dates of entrance and departure of each camper.

[c] License numbers of all vehicles and states that issued such licenses.

[2] Maintain the campground in a safe, orderly and sanitary condition.

[3] Assist emergency response agencies in cases of emergency.

Figure 350-66: Registration Center

(9) Recreation area. No less than 20% of the gross area of any campground shall be devoted to common recreational areas with facilities, such as playgrounds, trails, swimming pools or community buildings on suitable land for the stated purpose.

(10) Safety.

(a) The electrical installation and electrical hookup provided for camping units shall be in accordance with the provisions of the NEC, current edition.

(b) If open fires are permitted, there shall be a fireplace or fire pit provided for the building of fires by a camper, which shall be located within a cleared area to aid in fire control.

(11) Service building(s) and accommodations.

(a) General. A campground shall have a suitable building(s) for housing toilets, lavatories, showers and slop sinks. The building(s) shall be located to not exceed 200 feet travel distance from any campsite. The building(s) shall be constructed to provide adequate lighting, privacy and ventilation as prescribed by the Uniform Code.

[1] The amount of plumbing facilities shall be based on the total campground capacity according to the approved site plan.

[2] Floors of such buildings shall be of concrete, tile or similar material impervious to water and easily cleaned and drained by means of a floor drain.

Figure 350-67: Lavatory and Toilet Facilities at a Campground

(b) Garbage and/or rubbish disposal. All garbage and rubbish shall be stored in a suitable watertight as well as animal and pest resistant receptacle. It shall be the duty of the owner of the campground to regularly dispose of garbage and rubbish in a sanitary manner.

(c) Potable water. A campground shall obtain potable water from a source approved by the NYSDOH. The drinking, cooking, laundry, bath and general water supply for each campsite shall be obtained only from faucets or other plumbing fixtures connected directly to the potable water supply system. Such faucets or water supply fixtures may be either located by each campsite or at centralized watering stations.

(d) Public telephone. At least one public telephone shall be provided that is accessible and operational at all times. Such telephone shall be located in the vicinity of the permanent registration center and shall be illuminated at all times.

[1] Emergency information sign. A permanent and waterproof emergency information sign shall be installed within the immediate vicinity of the public telephone and shall contain the following information:

[a] The name(s) and telephone number of the campground's attendant; and

[b] The address of the campground; and

[c] The telephone numbers of the local emergency medical service, fire department and police department.

(e) Sewage disposal. A campground shall contain facilities for the proper disposal of wastewater via an approved septic system, legal RV dump station or any other system approved by an AHJ.

Figure 350-68: Site Plan of a Campground

§ 350-61.1. Campground, family occupied. A family occupied campground shall conform to the standards pertaining to a campground except for the following:

A. Campsites.

(1) The density of campsites shall not exceed four (4) regardless of the area of the applicable lot of record.

(2) Yards. A campsite shall have the minimum yards required for a principal building for the applicable zoning district.

B. Caretaker quarters. A caretaker quarters is not permitted at a family occupied campground.

C. Deed restrictions. Prior to authorization of a family occupied campground by the Town, the owner shall provide written proof to the designated approval authority that a covenant setting forth all of the following requirements, which shall be in a form satisfactory to the Town Attorney, and such covenant has been recorded in the Office of the County Clerk:

(1) A reference to the deed under which the lot of record was acquired by the owner.

(2) A restriction that the campsites shall not be rented, sold or owned separately, and the lot of record upon which the family occupied campground is located shall not be subdivided in any manner that would authorize such sale of ownership.

(3) A restriction that the campsites shall only be used by the owner as well as the owner's immediate and/or related family.

(4) A restriction that the campsites shall not be for rent or any other form of compensation, whether direct or indirect.

(5) The restriction described herein shall be binding upon any successor in ownership of the lot of record.

D. Lot area.

(1) General. A campground that is located on a lot of record shall have a lot area of at least a half (1/2) acre.

(2) Lot area per campsite. A lot of record shall be a minimum of six thousand (6,000) square feet per campsite.

E. Management. The owner of a lot of record is responsible for compliance with any applicable law such as but not limited to the Property Maintenance Code of NYS, current edition.

F. Recreation area. A recreation area is not required for a family occupied campground.

G. Service building(s) and accommodations. The following items are not required for a family occupied campground:

(1) General. Building(s) for housing toilets, lavatories, showers and/or slop sinks is not required for a family occupied campground.

(2) Potable water. Potable water is not required for a family occupied campground.

(3) Public telephone. A public telephone is not required for a family occupied campground.

Figure 350-69: Example of a family occupied campground.

§ 350-61.2. Cannabis retail dispensary.

A. Compliance with the law. No person or entity shall produce, grow, or sell cannabis or hold itself out as an NYS-licensed organization unless it has complied with Article 33 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time, and/or any other applicable law.

B. Approved products. A cannabis retail dispensary shall only dispense approved cannabis products in accordance with the applicable laws of NYS.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Building requirements.

(1) A cannabis retail dispensary shall operate within a permanently constructed, fixed structure. It is prohibited to operate from a vehicle or within a nonpermanent structure.

(2) A cannabis retail dispensary shall have its means of egress independent from any other use and shall directly discharge to a public way. For the purposes of this section, "means of egress" and "public way" are defined by the Uniform Code.

(3) A cannabis retail dispensary shall only dispense approved cannabis products in an indoor, enclosed, secure facility.

(4) A cannabis retail dispensary shall have a security system to prevent and detect diversion, theft, or loss of cannabis and/or cannabis products, using commercial grade equipment.

E. Licenses and/or permits. A cannabis retail dispensary shall submit evidence that all necessary licenses and/or permits have been obtained from NYS and all other AHJs to the Town. Said licenses and/or permits shall be posted in a conspicuous place, near the main exit or exit access doorway.

F. Location restriction(s).

(1) A cannabis retail dispensary shall not be located and/or operated within 500 feet of:

(a) A place of worship; or

(b) A building containing a child day-care establishment; or

(c) A building containing a school; or

(d) A park; or

(e) A building containing a residential use and/or Residential Group R use and occupancy as defined by the Uniform Code; or

(f) A structure or facility providing, whether wholly or partially, an essential public service; or

(g) A building containing licensed premises as defined by § 3 of the Alcoholic Beverage Control Law of the State of New York, as currently in effect and as hereafter amended from time to time; or

(h) A building containing another cannabis retail dispensary.

(i) A correctional facility.

(2) For the purpose of this subsection, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a cannabis retail dispensary is conducted to the nearest portion of the building or structure of a restricted location listed herein. Presence of a Town, village or other political subdivision boundary shall be irrelevant for purposes of calculating and applying these distance requirements.

G. Prohibited action(s). A cannabis retail dispensary shall not dispense cannabis products from the same location where the cannabis is grown or manufactured.

§ 350-62. Cemetery.

A. Access. Access to a cemetery shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within a principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Cemetery related structures. Cemetery related structures such as but not limited to mausoleums and columbariums are encouraged in order to maximize the use of interment acreage. Existing cemeteries shall not be required to obtain a special use permit or a use variance for the construction of cemetery- related structures.

E. Compliance with the state law. A cemetery shall comply with state law, such as but not limited to Article 15 of the Not for Profit Corporations Law of NYS, §§ 450 through 451 of the Real Property Law of NYS and §§ 4216 through 4221 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this section and such state law, the more restrictive requirement shall govern.

F. Flood zone. Burial plots or cemetery-related structures shall only be permitted in areas outside the 500-year-flood zone as prescribed by the Flood Insurance Rate Map of the Town, which is created by FEMA.

G. Parking spaces. The minimum number of parking spaces as prescribed within this chapter shall not apply to burial plots and cemetery-related structures, such as but not limited to a mausoleum or a columbarium.

H. Setbacks. All burial plots as well as cemetery-related structures shall be set back from any lot line in accordance to the minimum yard dimensions for a principal building at the applicable zoning district.

Figure 350-70: Site Plan of a Cemetery

§ 350-62.1. Commercial dog boarding and/or breeding.

A. Animals law. This use shall comply with the applicable provisions of the Animals Law of the Town, as currently in effect and as hereafter amended from time to time.

B. Other laws. This use shall comply with the applicable provisions of the following state and federal laws:

(1) Article 7 of the Agriculture and Markets Law of NYS, Licensing, Identification and Control of Dogs, as currently in effect and as hereafter amended from time to time.

(2) Article 26 of the Agriculture and Markets Law of NYS, Animals, as currently in effect and as hereafter amended from time to time.

(3) Article 26-A of the Agriculture and Markets Law of NYS, Care of Animals by Pet Dealers, as currently in effect and as hereafter amended from time to time.

(4) Article 35-D of the General Business Law of NYS, Sale of Dogs and Cats, as currently in effect and as hereafter amended from time to time.

(5) Title 1 NYCRR Part 65, Importation of Dogs and Cats, as currently in effect and as hereafter amended from time to time.

(6) United States Animal Welfare Act (AWA), as currently in effect and as hereafter amended from time to time.

C. Location.

(1) A commercial dog boarding and/or breeding use shall be located within the Agriculture zoning district of the Town.

(2) A commercial dog boarding and/or breeding use shall be located within a NYS certified agricultural district.

D. Minimum lot area. The minimum lot size for a commercial dog boarding and/or breeding use, whether licensed or unlicensed, shall be as follows:

(1) Five to 10 dogs: minimum lot size is two (2) acres.

(2) Eleven to 20 dogs: minimum lot size of three (3) acres.

(3) For each additional one (1) acre beyond three (3) acres, an additional ten (10) dogs are permitted at a commercial kennel.

(4) The minimum lot size requirements set forth herein shall be waived if the number of dogs at a commercial kennel is deemed acceptable by NYSDAM, USDA or a veterinarian.

E. Hours of confinement. All dogs shall be confined in a fully enclosed shelter between the hours of 9:00 p.m. and 7:00 a.m.

F. Setbacks.

(1) No outdoor area enclosed by fences for the use of commercial dog boarding and/or breeding shall be permitted within the front yard or within 50 feet of any side or rear lot line.

(2) Shelters for the use of commercial dog boarding and/or breeding shall not be closer than 100 feet to any lot line.

G. Standard of care.

(1) Licensed. A licensed commercial dog boarding and/or breeding use shall comply with the minimum standards of care prescribed by the applicable regulatory agency (e.g., NYSDAM, USDA).

(2) Unlicensed. An unlicensed commercial dog boarding and/or breeding use shall comply with the minimum standards of care prescribed within § 401 of the Agriculture and Markets Law of NYS regardless of whether such use is not classified as a pet dealer as defined in § 400 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

H. Veterinary care. All veterinary care shall be provided in accordance with Article 135 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time, and the "Practice Guidelines for Veterinary Medicine and Veterinary Technology in NYS," which such guidelines were developed and approved by the NYS Board for Veterinary Medicine and the NYSED.

I. Waste management. A commercial dog boarding and/or breeding use shall obtain a waste management plan from YCSWCD or any other AHJ (e.g., NYSDEC).

J. Complaints.

(1) Licensed. Complaints of cruelty, abuse, or neglect of dogs at a licensed commercial dog boarding and/or breeding use shall be investigated by the applicable regulatory agency (e.g., NYSDAM, USDA).

(2) Unlicensed. Complaints of cruelty, abuse, or neglect of dogs at an unlicensed commercial dog boarding and/or breeding use shall be investigated by any police officer having jurisdiction in the Town or an agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, which such authority is prescribed in § 373 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

K. Assistance from a veterinarian. The Code Enforcement Officer and/or designated approval authority shall have the authority to obtain assistance from a veterinarian as may be deemed necessary and appropriate under the circumstances. The owner shall pay any expense incurred by the Town as it pertains to such assistance.

Figure 350-71: Example of a commercial dog boarding and/or breeding use.

§ 350-63. Cottage housing development.

A. Intent. The Town recognizes that one of the methods to address our environmental sustainability and housing affordability is to build smaller dwellings. A cottage housing development is generally defined as a grouping of small, detached, single-unit dwelling units clustered around a common open space or courtyard and developed under a coherent plan. It is typically built on small infill sites in established residential zoning districts. It fills a niche between traditional choices of single-unit and multiunit dwellings. Although less spacious than conventional single-unit dwelling, it offers the privacy and personal space of a detached single-unit dwelling in a less costly package. Additionally, cottages may be located on separate lots of record, or on an undivided, commonly-owned lot of record. Residents may share use and maintenance expense of common facilities, such as parking, storage areas, and amenities. Furthermore, thoughtful design and efficient use of space are hallmarks of these developments. Well-designed cottage housing developments can offer significant community benefits, such as efficient use of land, and reduced demand for energy and building materials compared to conventional single-unit dwellings. It allows moderate increases in density while minimizing development scale. The number of people and vehicles per unit as well as overall building coverage are less than for a similar number of single dwelling units. Lastly, the smaller-sized units also are generally affordable to a wider pool of buyers.

B. Specific definitions. The following terms are specific to the use regulated by this section:

COMMON OPEN SPACE — Unoccupied land within a cottage housing development, not individually owned or publicly dedicated, that is designed and intended for the common use or enjoyment of such community's occupants and their guests and may include recreational improvements.

COMMUNITY BUILDING — A building owned in common by the cottage housing development's homeowners and designated for multipurpose uses by the cottage housing community. It should be consistent with the design and scale of the cottages, and its use should clearly be accessory to the cottage housing development.

COTTAGE — A detached single-unit dwelling that is part of a cottage housing development. FOOTPRINT

— The gross floor area of a cottage's ground-level story.

C. Community assets.

(1) Community building(s).

(a) Community buildings are permitted in a cottage housing development and shall be incidental in use and size to the cottages. In addition, community buildings shall conform to the design standards for a cottage.

(b) Dining facilities, entertainment space, guest quarters, library, recreational space and/or storage space may be permitted as part of a community building.

(c) A community building shall not exceed one story.

(d) Community buildings shall be located on the same lot of record as a cottage housing development, and shall be commonly owned by the residents of such development.

Figure 350-72: Community Building at a Cottage Housing Development

(2) Common open space.

(a) Each cottage shall be oriented to the common open space to provide a sense of openness and community for residents.

(b) At least 100 square feet per cottage of common open space is required. However, the common open space shall be at least 1,000 square feet in area, regardless of the number of cottages.

(c) Each area of common open space shall be in one contiguous and usable piece.

(d) To be considered as part of the minimum open space requirement, an area of common open space shall have a minimum dimension of 20 feet on all sides.

(e) At least two sides of the common open area shall have cottages along its perimeter.

(f) The common open space shall be distinguished from the private open space of a cottage via the installation of landscaping and/or fences to provide a visual boundary, or a walkway around the perimeter of the common open space.

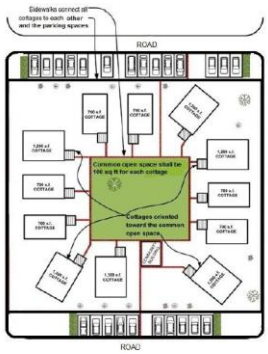


Figure 350-73: Common Open Space at a Cottage Housing Development

D. Clusters. A cottage housing development shall be composed of clusters of cottages, which shall conform to the following:

(1) Minimum cottages per cluster: 12.

(2) Maximum clusters per cottage housing development: two.

E. Density. The number of dwelling units proposed for a cottage housing development is permitted to be 1.5 times the maximum density permitted for a lot of record at an applicable zoning district. Moreover, the following density bonuses may be awarded by the designated approval authority that will allow a cottage housing development to increase such maximum density.

(1) Accessibility. Up to a 10% density bonus may be granted for the provision of making sites, facilities, buildings, and elements accessible pursuant to ICC/ANSI A117.1 — Accessible and Usable Buildings and Facilities.

(2) Agriculture. A 1% density bonus may be granted for each additional 1% of the site that will preserve farm operations. However, such bonus shall not exceed 10% regardless of the amount of proposed farm operations.

(3) Amenities. Up to a 10% density bonus may be granted for the provision of amenities such as but not limited to docks, parks as well as indoor and outdoor recreation facilities (e.g., swimming pools, gyms, playgrounds, walking trails, golf courses, etc.) considered beneficial to the cottage housing development. Such amenities shall not be required to be accessible to the public.

(4) Blight. Up to a 10% density bonus may be granted for the cleanup of a blighted site, contamination removal or demolition of obsolete structures.

(5) Common open space. A 1% density bonus may be granted for each additional 1% of the site that will be designated as common open space. However, such bonus shall not exceed 10% regardless of the amount of proposed common open space.

(6) Fire detection system, monitored. Up to a 10% density bonus may be granted for the provision of a monitored fire detection system in all structures. To be eligible for this bonus, such system shall be designed, installed and maintained in accordance to the reference standard(s) described within the Uniform Code.

(7) Fire protection system. Up to a 10% density bonus may be granted for the provision of a fire protection system in all structures. To be eligible for this bonus, such system shall be designed, installed and maintained in accordance to the reference standard(s) described within the Uniform Code.

(8) Historic preservation. Up to a 10% density bonus may be granted for preservation and adaptive reuse of

historically or architecturally significant structures, which such classification shall be determined by the County Genealogical and Historical Society or approved equivalent authority, that are located on the site.

~~(9) Noncombustible siding. Up to a 10% density bonus may be granted for the provision of noncombustible siding at all structures.~~

(10) Renewable energy systems. Up to a 10% density bonus may be granted for the provision of renewable energy systems, such as but not limited to solar photovoltaic and/or thermal systems and wind energy conversion system. Such amenities shall not be required to be connected to a public service agency.

F. Design standards.

(1) Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

(2) Building coverage. A cottage housing development shall be allowed a building coverage of 60%.

(3) Building height. The maximum building height of cottage shall be 28 feet.

(4) Carports and/or garages. Shared carports and/or garages shall be limited to five parking spaces per structure and shall be detached from cottages. Roofs of carports and/or garages shall be pitched.

(5) Cottage design.

(a) Appearance. Cottages shall contain a variety of designs that include articulation of facades, changes in materials, texture, color, and window treatments, and other architectural features so all units do not appear identical.

Figure 350-74: Appearance of Cottages at a Cottage Housing Development

(b) Basement or crawl space. A cottage may have a basement or a crawl space.

(c) Floor area. The gross floor area of each cottage shall not exceed 1,500 square feet. However, the following habitable spaces shall not be included in the gross floor area calculations:

[1] Architectural projections, such as bay windows, fireplaces or utility closets, which shall not be greater than four feet in depth and six feet in width;

[2] Attached but unenclosed porches;

[3] Attached decks;

[4] Basements or cellars;

[5] Habitable spaces equal to or less than six feet.

(d) Front porch. A covered front porch, which shall be a minimum of 60 square feet, is required at each cottage. Such porch shall be oriented toward the common open space.

(e) Manufactured home. A manufactured home is prohibited to be utilized as a cottage.

(f) Orientation. Each cottage shall be clustered around a common open space. Each cottage shall have

a primary entry and covered porch oriented to the common open space.

(g) Private garage. A private garage is prohibited to be attached to a cottage.

(h) Roof. A roof of a cottage shall be pitched.

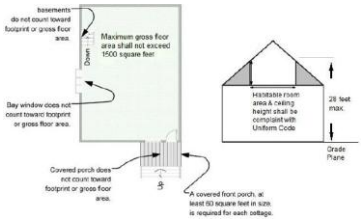


Figure 350-75: Size of a Cottage at a Cottage Housing Development

(6) Parking spaces.

(a) Parking shall be separated from the common open space and public roads by a buffer.

(b) Parking spaces shall be accessed only by a private driveway or road.

(c) The design of garages and carports, including their associated roof lines, shall be similar to and compatible with that of the cottages within the cottage housing development.

(d) Parking areas shall be limited to no more than five contiguous parking spaces. Clusters must be separated by a distance of at least 20 feet.

(7) Private open space. Each cottage in a cottage housing development shall be provided an area of private open space. The private open space shall separate the main entrance to the cottage from the common open space to create a sense of privacy as well as small but pleasant private yard area. The private open space may be separated from the common open space with landscaping, fences or other similar visual separation to create a sense of separate ownership.

(a) Each cottage shall be provided with a minimum of 300 square feet of private open space.

(b) No dimension of the private open space shall be less than 10 feet.

(8) Setbacks. The minimum setbacks for all structures, which includes cottages, parking structures and community buildings, in a cottage housing development are:

(a) Ten feet from a road.

(b) Ten feet from any other structure.

(c) Cottages shall be no more than 25 feet from the common open area, measured from the facade of the cottage to the nearest delineation of the common open area.

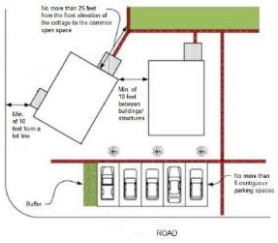


Figure 350-76: Setbacks and Parking at a Cottage Housing Development

(9) Walkways. A system of interior walkways shall connect each cottage to each other and to the parking area, and to any sidewalks abutting any roads bordering the cottage housing development.

(10) Yards. A cottage housing development shall comply with the following minimum yard requirements:

(a) Front yards. Front yards shall not be less than 10 feet.

(b) Rear yards. Rear yards shall not be less than 10 feet.

(c) Side yards. Side yards shall not be less than 10 feet.

G. Ownership. Community buildings, parking areas and common open space shall be owned and maintained commonly by the cottage housing development's residents, through a condominium association, a homeowners' association, or a similar mechanism that is approved by the Town Attorney, and shall not be dedicated to the Town.

Figure 350-77: Site Plan of a Cottage Housing Development

§ 350-64. Commercial, heavy or light.

A. Access. Access to a commercial use, whether heavy or light, shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit or on the lot of record as a detached single-unit dwelling.

§ 350-65. Country club.

A. Access. Access to a country club shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Design.

(1) Accessory uses. A country club may include the following accessory uses, provided such uses are reasonably sized and located so as to provide incidental service to a country club:

(a) Clubhouse, which may consist of:

[1] Restaurant, snack bar, lounge, and banquet facilities;

[2] Locker rooms and restrooms;

[3] Pro shops;

[4] Administrative offices;

[5] Golf cart and maintenance equipment storage and service facilities;

[6] Guest lodging for those using the golf course, provided:

[a] No lodging units have separate exterior means of ingress/egress;

[b] All lodging units shall be contained within the main clubhouse; and

[c] Such guest lodging shall have a total occupancy of no more than 20 persons;

[7] Fitness and health equipment, including workout machines, spas, whirlpools, saunas, and steam rooms;

[8] Game rooms, including card tables, billiards, ping-pong, video games, pinball machines, and other similar table games; and

[9] Babysitting rooms and connected fence-enclosed play lots.

(b) Accessory recreation amenities located outside of a building, including:

[1] Golf courses.

[2] Driving ranges, provided that the applicant shall furnish expert evidence that all lighting has been arranged to prevent glare on contiguous lots of record and roads;

[3] Practice putting greens;

[4] Swimming pools;

[5] Tennis, platform tennis, handball, racquetball, squash, volleyball, and badminton courts;

[6] Bocce ball, croquet, shuffleboard, quoits, horseshoe pits, and washers courses;

[7] Picnic pavilions, picnic tables, park benches, and barbecue pits;

[8] Hiking, biking, horseback riding, and cross-country ski trails; and

[9] Playground equipment and play lot games, including four square, dodgeball, tetherball, and hopscotch.

(2) Minimum lot area. The minimum lot area for a lot of record containing a country club shall conform to the following requirements but shall not be less than 30 acres:

(a) Eighteen hole regulation length golf course: 350 acres.

(b) Eighteen hole executive length golf course: 70 acres.

(c) Eighteen hole par-three length golf course: 50 acres.

(d) Nine hole regulation length golf courses: 70 acres.

(e) Nine hole executive length golf course: 40 acres.

(f) Nine hole par-three length course: 30 acres.

(3) Setbacks. A 50-foot-minimum setback shall be provided from any accessory and principal building, swimming pool, tennis court or any amenity area, excluding fairways and greens, to any contiguous lot line.

§ 350-66. Cultural center.

A. Access. Access to a cultural center shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

§ 350-67. Drive-through window facility.

A drive-through window facility shall be a component of a nonresidential use, such as but not limited to a bank, pharmacy or restaurant. Such facility shall comply with the following standards:

A. Access. Access to a drive-through window facility shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Orientation. A drive-through window facility shall not be located at the front yard of a lot of record.

D. Setbacks. The location of a drive-through window facility shall be a minimum of 50 feet from a contiguous lot of record.

E. Stacking lanes.

(1) Entrances to stacking lane(s) shall be clearly marked and a minimum of 40 feet from the intersection with a road. The distance shall be measured from the lot line along a road to the beginning of the entrance.

(2) Each stacking space shall be a minimum of 20 feet in length and 10 feet in width along all portions of the lane(s).

(3) Restaurants shall have a minimum of five spaces for queuing vehicles accessing the ordering window or speaker. If pickup/payment windows are provided separately, the queuing distance between windows and/or speaker(s) shall be a minimum of two stacking spaces.

(4) Banks, service and retail establishments shall have a minimum of three stacking spaces for queuing vehicles accessing a drive-through window or speaker.

(5) Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.

(6) Stacking lanes shall be designed to prevent congestion, both on-site and on adjacent roads.

(7) Stacking lane layout:

(a) Shall be integrated with the on-site circulation pattern; and

(b) Shall minimize conflicts between pedestrian and vehicular traffic by providing physical and visual separation between the two; and

(c) Shall provide an emergency bypass or exit, if such stacking lane is curbed; and

(d) Shall not impede or impair access into or out of parking spaces; and

(e) Shall not impede or impair pedestrian or vehicular traffic movement; and

(f) Shall not interfere with required loading and trash storage areas; and

(g) Shall not enter or exit directly into a public right-of-way.

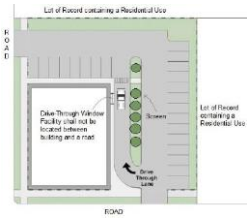


Figure 350-78: Drive-Through Window Facility

§ 350-68. Dwelling unit.

A. General. A dwelling unit shall be used solely to provide complete independent living facilities for one (1) family as prescribed in its definition provided within this chapter. This unit shall not be used to operate a commercial and/or industrial use.

(1) Exception(s):

(a) Home occupations, where authorized by this chapter.

(b) Special events by or for the owner as well as his/her/their immediate family members such as but not limited to anniversaries, birthdays, and/or weddings. These events shall not be revenue generating and adequate off-road parking and sanitation facilities shall be provided unless approved otherwise by an AHJ.

B. Floor area. All dwelling units shall conform to the occupancy limitations prescribed in the Uniform Code. However, a dwelling unit shall not be less than 800 square feet in net floor area. Exemption(s):

(1) Accessory dwelling unit. An accessory dwelling unit is permitted to have a minimum net floor area as prescribed in this chapter.

(2) Caretaker quarters. A caretaker quarters is permitted to have a minimum net floor area of 400 square feet.

(3) Dwelling unit at an extended stay hotel. A dwelling unit at an extended stay hotel is permitted to have a minimum net floor area of 400 square feet.

C. Foundation. All dwelling units shall be constructed or placed upon and anchored to a foundation that complies with the applicable provisions of the Uniform Code. In the event that a dwelling unit is a manufactured home, it shall be installed and anchored pursuant to the manufacturer's installation instructions and the applicable regulations of the Uniform Code, and none of the undercarriage shall be visible from outside the manufactured home.

D. Farm worker housing unit.

(1) Compliance with the Sanitary Code. A farm worker housing unit shall comply with Part 15 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time, if such state regulation is applicable. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

(2) NYS-certified agricultural district. Farm worker housing units shall be permitted at farm operations located in an NYS-certified agricultural district and shall be classified as an accessory use. Any farm worker housing

unit that has not been used for such purposes for three or more years shall be removed from the lot of record.

E. Manufactured home.

(1) General. The provisions contained within this section are intended to serve as supplemental requirements to the Uniform Code in order to protect the public health, safety and the general welfare insofar as they are affected by the installation of manufactured homes. The regulations shall supplement and not replace the applicable provisions established within the Uniform Code. Lastly, the more restrictive provision shall apply where conflicts occur between provisions of this section, the Uniform Code or and other applicable law.

(2) Age. Except on the conditions specified herein, no certificate or permit shall be issued for any manufactured home built more than five years from the application date of such certificate or permit. However, such period of time may be extended upon the submission of a written report prepared and sealed by a registered design professional that the manufactured home conforms to all of the following criteria:

(a) Is not greater than 10 years in age.

(b) Conforms to the standards prescribed in the Uniform Code.

(3) Use. A manufactured home shall be used in accordance to the manufacturer's design and specifications. For example, a manufactured home designed in accordance with the Manufactured Home Construction and Safety Standards (AKA, the "HUD Code"), as currently in effect and as hereafter amended from time to time, is only permitted to be used as a single- unit dwelling.

F. Mobile home. The new installation of a mobile home shall be prohibited in the Town but existing mobile homes are allowed to remain but shall be classified as a nonconforming use.

G. Multiple-unit dwelling.

(1) Access. Access to a multiple-unit dwelling shall only be taken from a public road.

(2) Compliance with the law. A multiple-unit dwelling shall comply with the applicable provisions of the Energy Code, Multiple Residence Law of NYS, Uniform Code and/or any other applicable law.

~~(3) Number of dwelling units. A maximum of 10 dwelling units shall be permitted at each multiple- unit dwelling.~~

§ 350-68A. Energy storage system (ESS).

A. Authority. The Town Board enacts this section under the authority granted by the following:

(1) § 2(c)(6) and (10) of Article IX of the Constitution of NYS.

(2) § 4 of Article XIV of the Constitution of NYS.

(3) § 10, Subdivisions 1, 6 and 7 of the NY Statute of Local Governments.

(4) § 10 of the Municipal Home Rule Law of NYS.

(5) §§ 261-263 of the Town Law of NYS.

B. Purpose. This section is adopted to advance and protect the health, quality of life, safety and general welfare of the residents and visitors of this town by creating regulations for the installation and use of energy storage systems, with the following objectives:

(1) To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of energy storage systems; and

(2) To ensure that an ESS installation is compatible with surrounding land uses and does not have a significant adverse impact on the quality of life for residents; and

(3) To mitigate the impacts of energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and

(4) To allow for public participation in the development and review of an ESS, ensuring that community's concerns are addressed; and

(5) To provide a clear and consistent process for permitting and inspecting an ESS, including specifying required documentation, financial sureties and review procedures; and

(6) To create synergy between energy storage system development and the goals prescribed in the comprehensive plan.

C. Applicability.

(1) The requirements of this section shall apply to all energy storage systems permitted, installed, or modified in this town after the effective date of this local law, excluding general maintenance and repair.

(2) Energy storage systems constructed or installed prior to the effective date of this local law shall not be required to meet the requirements of this local law.

(3) Modifications to, retrofits or replacements of an existing energy storage system that increase the total energy storage system designed discharge duration or power rating shall be subject to this local law.

(4) The requirements of this section shall not apply to mobile energy storage systems deployed at an electric utility substation or generation facility for 90 days or less shall not add to the threshold values in the table for the stationary ESS installation prescribed in the Fire Code if both of the following conditions apply:

(a) The mobile ESS complies with the applicable sections of the Fire Code.

(b) The mobile ESS is being used only during periods in which the facility's stationary ESS is being tested, repaired, retrofitted or replaced.

D. Specific definitions. The following terms are specific to the use regulated by this section:

(1) ABANDONMENT – In regard to an ESS, this system is considered abandoned if (1) it stops operating regularly for more than a year; (2) system is not compliant with its applicable approvals and any associated conditions; and (3) the owner's failure to maintain a decommissioning fund.

(2) COMMISSIONING – A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

(3) DECOMMISSIONING. A systematic process that provides documentation and procedures that allow an ESS to be safely de-energized, disassembled, readied for shipment or storage, and removed from the premises in accordance with applicable local, state and federal regulations.

(4) DEDICATED-USE BUILDING – A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:

(a) The building's only permitted primary use is for battery energy storage, energy generation, and other electrical grid-related operations.

(b) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

(c) No other occupancy types are permitted in the building.

(d) Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain a battery energy storage system, provided the following:

(i) The areas do not occupy more than 10 percent of the building area of the story in which they are located.

(ii) A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.

(5) DUAL-USE SOLAR ENERGY SYSTEM – Shall bear the same meaning as "dual-use solar energy system" that is defined in the Solar Energy System Law of this town, as currently in effect and amended from time to time.

(6) ENERGY STORAGE SYSTEM (ESS) – One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time. For the purposes of this section, an ESS is classified as a Tier 1, Tier 2 or Tier 3 ESS as follows:

(a) Tier 1 ESS includes either:

(i) An ESS for residential uses with an aggregate and individual energy capacity less than or equal to the threshold capacity listed in the Residential Code.

(ii) An ESS for nonresidential uses with an aggregate energy capacity less than or equal to the threshold capacity listed in the Fire Code.

Example of a Tier 1 ESS

(b) Tier 2 ESS is an energy storage system that is not included in Tier 1 and Tier 3. This system has an aggregate energy capacity of less than 600 kWh and consists of only a single energy storage system technology.

Example of a Tier 2 ESS

(c) Tier 3 ESS includes any of the following:

(i) An ESS with an aggregate energy capacity greater than or equal to 600kWh.

(ii) A grid-connected ESS regardless of energy capacity.

(iii) An ESS with more than one energy storage technology.

(iv) An ESS located within a dedicated-use building.

Example of a Tier 3 ESS

(7) ESS, MOBILE. An ESS capable of being moved and utilized for temporary energy storage applications, and not installed as fixed or stationary electrical equipment. The system can include integral wheels for transportation or be loaded on a trailer and unloaded for charging, storage and deployment.

Example of a Mobile ESS

(8) ESS RESPONSE TEAM – A specialized group that provides emergency response, training, and risk assessment services related to energy storage systems. These teams often include individuals with backgrounds in firefighting, public safety, and engineering.

(9) ESS, STATIONARY. An ESS installed as fixed or stationary electrical equipment in a permanent location.

(10) FIRE CODE – The Fire Code of NYS, as currently in effect and as hereafter amended from time to time.

(11) GRID-CONNECTED ENERGY STORAGE SYSTEM – An energy storage system, also known as industrial or large-scale energy storage system, are technologies connected to the electrical power grid that store energy for later use. These systems help balance supply and demand by storing excess electricity from variable renewables such as solar and inflexible sources like nuclear power, releasing it when needed. They further provide essential grid services, such as helping to restart the grid after a power outage.

(12) HOST COMMUNITY AGREEMENT (HCA) – A legally binding document that outlines the terms and conditions under which an ESS will be developed and operated in this town. It establishes the relationship between the ESS owner and the local community, addressing potential concerns and benefits.

(13) IMMEDIATELY DANGEROUS TO LIFE OR HEALTH (IDLH) LEVEL – In the context of energy storage, this term refers to a dangerous concentration of a substance (like a toxic gas) that could potentially cause death or serious harm if inhaled, even for a short period. This level is crucial for determining appropriate respiratory protection and emergency response strategies for energy storage systems. Furthermore, this level is a threshold established by organizations like the National Institute for Occupational Safety and Health (NIOSH) to indicate the maximum concentration of an airborne contaminant from which someone can escape within 30 minutes without experiencing symptoms that would impair their ability to escape or suffer irreversible health effects.

(14) KEY BOX – Shall bear the same meaning as "key box" that is defined in the Fire Code.

(15) NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL) – A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

(16) NFPA 855 – A nationally accepted fire protection standard that establishes safety requirements for the installation of stationary energy storage systems (ESS). This includes addressing fire and explosion hazards associated with these systems, particularly those using batteries. The standard outlines mandatory requirements, safety strategies, and best practices for preventing explosions and containing fires in ESS installations, including those used by utilities.

(17) NON-DEDICATED-USE BUILDING – All buildings that contain an ESS and do not comply with the dedicated-use building requirements.

(18) NON-PARTICIPATING PROPERTY – Any property that is not a participating property.

(19) NON-PARTICIPATING RESIDENCE – Any residence located on non-participating property.

(20) OCCUPIED COMMUNITY BUILDING – Any building in occupancy group A, B, E, I, R, as defined in the Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

(21) PARTICIPATING PROPERTY – An ESS host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the ESS owner (or affiliate) regardless of whether any part of an ESS is constructed on the property.

E. Use classification and zoning districts.

(1) Tier 1 ESS. This ESS shall be classified as a permitted accessory use in all zoning districts.

(2) Tier 2 ESS. This ESS shall be classified as a special use at the following zoning districts:

(a) Agriculture.

(b) Agricultural Residential.

(c) Commercial.

(d) Light Industrial.

(3) Tier 3 ESS. This ESS shall be classified as a special use at the Light Industrial zoning district.

Exception(s):

(a) A Tier 3 ESS incorporated into a dual-use solar energy system shall be classified as a special use in the Agriculture and Light Industrial zoning district.

F. Peer reviewer. When required by the Code Enforcement Officer, the owner shall be responsible for retaining and furnishing the services of a registered design professional or qualified person, who will act as a peer reviewer and be subject to approval by this officer.

(1) Qualifications. The qualifications for a peer reviewer are prescribed in the Fire Code.

G. Standards applicable to all ESS. The following are in addition or a substitution to the bulk regulations and general standards prescribed in this chapter:

(1) Abandonment. Upon abandonment, the owner shall initiate and comply with the decommissioning plan, including but not limited to the removal of the ESS and restoration of the site. This town has the authority to utilize the decommissioning fund to ensure proper decommissioning.

(2) Bulk regulations. An ESS shall comply with the bulk regulations for the applicable zoning district. Furthermore, the building height and yard (a.k.a., setback) requirements for an ESS shall comply with the dimensional requirements for a principal building. An ESS shall also comply with NFPA 855 since that standard has specific setbacks between ESS installations and various potential exposures, including but not limited to lot lines, buildings, and combustible materials.

(3) Grid-connected energy storage system. Any energy storage system that will be connected to the utility grid shall provide written documentation from the applicable public service agency permitting this system's connection to its utility grid.

(4) Maintenance and operation. An ESS shall be maintained and operated in accordance with industry and manufacturers' standards.

(5) NFPA 855. An ESS shall comply with any applicable requirement prescribed in the Uniform Code.

(6) Noise. The hourly mean noise generated from an ESS as well as its components and associated ancillary equipment shall not exceed a noise level of 50 dBA as measured at the outside wall of any non-participating residence and occupied community building as well as 55 dBA to a contiguous lot line of a non-participating property. An owner may submit equipment and component manufacturers noise ratings to demonstrate compliance. The owner may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations to demonstrate compliance with this standard.

(7) Outdoor lighting.

(a) An ESS shall comply with the requirements of NFPA 855 and/or Uniform Code related to lighting. However, dark sky compliant outdoor lighting is required so long as it does not conflict with this standard and/or code.

(8) Signage.

(a) General. An ESS shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the ESS.

(b) Electrical safety signs. Signs shall post signs in compliance with NFPA 70 / 70E or any applicable successor code in place at the time of application for approval.

(c) Other signs. Signs shall be provided in accordance with NFPA 855 and the Uniform Code, or any applicable successor code in place at the time of application for approval, including information on the system type and technology, special hazards, fire suppression system and 24-hour emergency contact information, including reach-back phone number.

(9) Site access. Site access (e.g., driveway, fire apparatus access road, etc.) for emergency response agencies shall be installed and maintained to/from an ESS as prescribed in the Uniform Code.

(10) Uniform Code. An ESS shall comply with any applicable requirement prescribed in the Uniform Code.

(11) Utilities. All on-site utility lines shall be placed underground to the extent feasible and as permitted by a public service agency, except for the main service connection at this agency's right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.

H. Standards applicable to Tier 2 and Tier 3 ESS.

(1) Commissioning plan, test and report. A commissioning plan and report shall be provided in accordance with NFPA 855 and the Uniform Code.

(2) Community meeting.

(a) General. The owner shall be responsible for hosting a community meeting for owners of lots of record within a minimum five hundred (500) feet radius of the ESS prior to submitting an application. This meeting shall not constitute a public hearing that may be required for approvals (e.g., special use permit) and shall not be administered by staff and/or appointed/elected board members of this town. Furthermore, no comments, design(s) and/or other plan(s) discussed and/or presented at this meeting shall be considered legally binding.

(b) Purpose. Public participation in the development and review of an ESS is important to address the community's concerns but also provides an opportunity for the owner to explain the public benefits and safety of this system. Therefore, it is essential that the owner hosts a community meeting to obtain input from the public and address concern(s) prior to submitting any application.

(3) Construction documents and site plan. Construction documents and a site plan shall be provided in accordance with NFPA 855 and the Uniform Code.

(4) Decommissioning fund. The owner shall continuously maintain a fund or bond payable to this town, in a form approved by the Town Attorney, for the removal of an ESS, in an amount to be determined by the peer reviewer and/or Town Engineer based on the decommissioning cost estimates provided in the decommissioning plan. The amount of the bond or security shall be no less than 125% of the decommissioning cost estimates if approved by the peer reviewer and/or Town Engineer. All costs of the financial security shall be borne by the owner.

(a) Default. In the event of default upon performance of any approvals and associated conditions, after proper notice and expiration of any cure periods, the decommissioning fund shall be forfeited to this town, which shall be entitled to maintain an action thereon. The decommissioning fund shall remain in full force and effect until site restoration and ESS deconstruction as set forth in the decommissioning plan is fully completed.

(b) Periodic review. The decommissioning fund shall be reviewed every 3 years by the peer reviewer and/or Town Engineer. This review is necessary to ensure sufficient funds are available for the safe and proper removal and disposal of an ESS. All costs of this review shall be borne by the owner.

(5) Decommissioning plan. A decommissioning plan shall be provided in accordance with NFPA 855, the Uniform Code and the following requirements. This plan shall be implemented upon abandonment and/or in conjunction with the removal of an ESS. In addition, this plan, including but not limited to its cost estimates, shall be reviewed every 3 years to accommodate changes and/or update information.

(a) Procedures for the disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

(b) The estimated decommissioning costs and how said estimate was determined. Salvage value shall not be included in the cost of decommissioning an ESS.

(c) The method of ensuring that funds will be available for decommissioning and restoration.

(d) The method by which the decommissioning cost will be kept current.

(e) The method of site restoration shall include bringing soil and topography of the land to their pre-development composition (or better) to ensure future use upon restoration. Soil tests shall be required as part of the decommissioning plan both before development and prior to the decommissioning.

(f) A detailed decommissioning schedule that includes a Gantt chart with the decommissioning tasks, their duration, and their assigned resources (manpower).

(g) A listing of any contingencies for removing an intact and operational ESS from service, and for removing an ESS from service that has been damaged by a fire or other event.

(h) An executed indemnification and hold harmless clause, which shall be approved by the Town Attorney, signed by the Town Board and owner in the event the town must carry out decommissioning activities.

(6) Emergency planning and training. Emergency planning and training shall be provided in accordance with NFPA 855 and the Uniform Code. This planning and training shall also include participation by the County Office of Emergency Services, local fire departments and any other local emergency response agencies.

(7) Emergency operations plan. An emergency operations plan shall be provided in accordance with NFPA 855 and the Uniform Code. This plan shall implement any recommendations by the County Office of Emergency Services, local fire departments and any other local emergency response agencies.

(8) Emergency water supply. An emergency water supply (e.g., fire pond) shall be provided if an adequate and existing water supply for fire protection / suppression is not available.

(9) Energy storage management system. Visible annunciation shall be provided on the cabinet's exterior or in an approved location to indicate potentially hazardous conditions associated with the ESS.

(10) Erosion and stormwater control. An erosion and stormwater control plan(s) shall be provided and prepared to be compliant with the NYSDEC's standards, if applicable, as well as any recommendations by the Town Engineer and/or YCSWCD. Furthermore, detention ponds and infiltration basins are substantially preferred by this town as a control facility to reduce runoff, peak flow rates and flooding.

(11) Groundwater impacts. An analysis of impacts on local groundwater resources shall be provided if an ESS is an underground thermal energy storage (UTES) or aquifer thermal energy storage (ATES), or other similar type of storage system.

(12) Hazard mitigation analysis. A hazard mitigation analysis shall be provided in accordance with NFPA 855 and the Uniform Code.

(13) Host community agreement. A host community agreement shall be executed between the Town Board and the owner of the ESS. No approvals shall be granted until this agreement is finalized.

(14) Landscaping and screening plan. The owner shall submit a landscaping and screening plan to show adequate measures to screen through landscaping, grading, or other means so that views of the ESS shall be minimized as reasonably practical from public roadways and adjacent lots to the extent feasible.

(a) This plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the ESS. This plan shall be reviewed by the Town Engineer.

(15) NYSDAM mitigation for agricultural lands. The owner shall submit a mitigation plan for construction impacts on agricultural lands during the following stages: (1) construction, (2) post-construction restoration, (3) monitoring and remediation, and (4) decommissioning. This plan shall be developed in accordance with the NYSDAM's guidelines such as those used for solar and wind energy projects.

(16) Operations and maintenance manual. A decommissioning plan shall be provided in accordance with NFPA 855 and the Uniform Code.

(17) Security.

(a) An ESS shall comply with the requirements established in NFPA 855 related to barriers and buffering.

(b) An ESS shall have a perimeter fence of at least 7 feet in height with a self-locking gate, which shall be compliant with the Uniform Code, to prevent unauthorized access.

(c) An ESS shall install a key box whose manufacturer, model and installed location are approved by the local fire department.

(18) SEQRA. A Tier 2 and/or 3 energy storage system shall be classified as a Type I action pursuant to § 617.4 of SEQRA and this chapter. It shall also receive a coordinated review.

(a) The Town Engineer shall assist the designated approval authority as it pertains compliance with the applicable procedures and requirements prescribed by SEQRA.

(19) Siting considerations.

(a) Environmentally sensitive areas. An ESS should not be installed in environmentally sensitive areas such as but not limited to floodplains, steep slopes and wetlands. If an ESS is installed in such areas, it shall be designed and inspected by a professional engineer to minimize its impact on the environment. Furthermore, all applicable approvals (e.g., floodplain development permit, NYSDEC wetland permits, etc.) shall be obtained prior to the start of any work and a copy submitted to the town.

(b) Preservation of agricultural land. § 4 of Article XIV of the Constitution of NYS, the goal(s) of the comprehensive plan, and the County's Agricultural Development and Farmland Enhancement Plan is to preserve, to the maximum extent practicable, agricultural land with prime farmland, prime farmland if drained, and soils of statewide importance. For that reason, no ESS shall be permitted on such lands that are located within the Agriculture zoning districts.

Exception(s):

(i) An ESS that is incorporated into dual-use solar energy system.

(20) Transportation plan.

(a) The owner shall submit a plan describing the routes to be used in delivery of the project's components, equipment and building materials as well as those to be used to provide access to the site during and after construction. Commercial traffic shall adhere to operating on commercially designated roads. This plan shall also include any anticipated improvements to existing roads, bridges or other infrastructure as well as measures to restore damaged / disturbed access routes and all other infrastructure following construction. This plan shall be approved by the AHJ(s) for roads delineated as routes.

(b) The town reserves the right to require a public improvement bond or other financial security, which shall be approved by the Town Attorney, to be posted prior to the issuance of any approvals, in an amount determined by the Town Engineer as sufficient to compensate the town for any damage to its roads and infrastructure. All costs of this bond or financial security shall be borne by the owner.

(21) Visual impact assessment. The owner shall submit a visual impact assessment of an ESS on public roadways and adjacent lots. At a minimum, a line-of-sight profile analysis shall be provided depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant. The NYSDEC's policy DEP-00-2, Assessing and Mitigating Visual Impacts, provides guidance for the evaluation of visual impacts of proposed projects.

(22) Unified control. An ESS shall be under single ownership or unified control, where a single entity has the responsibility for the design, construction, maintenance, operation, and decommissioning of this system.

I. Ownership changes.

(1) If the ownership of an ESS changes or the owner of the property changes, the new owner must provide written notification to the Code Enforcement Officer and Town Clerk within 30 calendar days of this change. This notification shall include his/her/their contact information and any changes to the 24-hour emergency contact information.

(2) The new owner shall comply with any agreements, certificates, contracts, documents, financial obligations (e.g., decommissioning fund), permits, plans, and any associated conditions that were approved for the installation, operation, maintenance, and decommissioning of an ESS.

J. NYS Real Property Tax Law exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

K. Variance. A variance from the standards prescribed in this section for an ESS determined to be a public utility shall utilize the public utility variance standard established by case law. If this system is not determined to be a public utility, an area variance or use variance, whichever one is applicable, shall be utilized to deny or grant a variance from the standards prescribed in this section.

§ 350-69. Farm operation.

A. Agricultural manure storage facility.

(1) Intent. The intent of this subsection is to:

(a) Ensure that an owner has assistance in design, placement and materials used to construct an agricultural manure storage facility; and

(b) Protect groundwater resources and water bodies within the Town; and

(c) Protect the health, welfare and safety of the public.

(2) Location. An agricultural manure storage facility is only permitted at a farm operation located within an NYS-certified agricultural district.

(3) Design. Upon receipt of an application for an agricultural manure storage facility, the designated approval authority shall transmit such application and its site plan to YCSWCD for its recommendations. The owner shall comply with any recommendation of YCSWCD. Exemption(s):

(a) The design of an agricultural manure storage facility that is prepared and sealed by a registered design professional shall not be required to be transmitted to YCSWCD.

(4) Setbacks. An agricultural manure storage facility shall be:

(a) Located a minimum of 100 feet from a road right-of-way;

(b) Located a minimum of 100 feet from a residential or nonagricultural structure, well, watercourse or water body.

(5) Use classification. An agricultural manure storage facility shall be classified as a customarily accessory use to a farm operation.

Figure 350-79: Agricultural Manure Storage Facility

B. Commercial horse boarding and/or equine operation.

(1) Access. Access to a commercial horse boarding and/or equine operation shall only be taken from a public road.

(2) Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

(3) Location. A commercial horse boarding and/or equine operation shall be located within an NYS-certified agricultural district.

(4) Minimum lot area. A commercial horse boarding and/or equine operation shall be located on a lot of record that has a minimum lot area of seven acres pursuant to § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

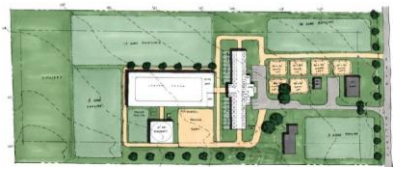


Figure 350-80: Site Plan of a Commercial Horse Boarding and/or Equine Operation

C. Farm stand. Farm stands operated in conjunction with a farm operation are permitted, provided that such use meets all of the following standards:

(1) Access. Access to a farm stand shall only be taken from a public road.

(2) Safety. Safe ingress and egress from a farm stand shall be required, including the provision of adequate pulloff areas and/or parking space for at least one vehicle.

(3) Setback. A farm stand shall be set back a minimum of 10 feet from a road and its associated right-of-way.

D. Farm waste energy system.

(1) Intent. The intent of this subsection is to:

(a) Ensure that an owner has assistance in design, placement and materials used to construct an farm waste energy system; and

(b) Protect groundwater resources and water bodies within the Town; and

(c) Protect the health, welfare and safety of the public.

(2) Location. A farm waste energy system is only permitted at a farm operation located within an NYS-certified agricultural district.

(3) NYS Real Property Tax Law exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

(4) Registered design professional. The design of a farm waste energy system shall be prepared and sealed by a registered design professional. Exemption(s):

(a) The design of a farm waste energy system that has obtained approval from the NYSDEC (e.g., solid waste and air pollution control permits) shall not be required to prepared and sealed by a registered design professional unless required otherwise by such state department. A copy of applicable NYSDEC approval shall be submitted for the Town to permit such exemption.

(5) Setbacks. A farm waste energy system shall be:

(a) Located a minimum of 100 feet from a road right-of-way;

(b) Located a minimum of 100 feet from a residential or nonagricultural structure, well, watercourse or water body.

(6) Use classification. A farm waste energy system shall be classified as an accessory use to a farm operation.

Figure 350-81: Farm Waste Energy System

E. Nursery. A nursery dealer or nursery grower shall be registered with NYSDAM as prescribed by Article 14 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

§ 350-70. Fences.

This structure shall be regulated by the Fence Law of the Town, as currently in effect and as hereafter amended from time to time.[20]

§ 350-71. Funeral establishment.

A. Access. Access to a funeral establishment shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Compliance with the Sanitary Code. A funeral establishment shall comply with § 77.7 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

§ 350-71.1. Garage, private.

E. Commercial and/or industrial use. A private garage is prohibited from being used for commercial and/or industrial use.

(1) Exception(s):

(a) Home occupation, where authorized by this chapter.

F. Storage purposes. A private garage used for storage of household goods, lawn equipment, personal belongings, vehicles, and/or other items of the owner shall be an enclosed structure to prevent such items from being visible from adjacent lots and/or roads, whether private or public.

§ 350-71.1. Guest house.

A. A guest house shall conform to the standards pertaining to an accessory dwelling unit except for the following:

(1) Occupancy. A guest house shall only be occupied by immediate and/or related family members or guests of the owner of the subject lot of record.

(2) Rental prohibited. A guest house shall not be for rent or any other form of compensation, whether direct or indirect. Prior to the authorization of a guest house by the Town, the owner shall provide written proof to the designated approval authority that a covenant setting forth all the following requirements, which shall be in a form satisfactory to the Town Attorney, and such covenant has been recorded in the Office of the County Clerk:

(a) A reference to the deed under which the lot of record was acquired by the owner.

(b) A restriction that the guest house shall not be for rent or any other form of compensation, whether direct or indirect.

(c) The restriction described herein shall be binding upon any successor in ownership of the lot of record.

§ 350-72. Home occupation.

A. Intent. The Town recognizes the need to establish regulations pertaining to home occupations as a result of increased opportunities and requirements to work at home. Home occupations will particularly benefit individuals with physical disabilities, as well as those having to care for children or the elderly within their home. The Town also recognizes the potential benefits to the local community that could be realized by those seeking services or goods supplied through home occupations. For these reasons, it is the intent of this section to establish regulations which will permit home occupations in a manner which will preserve the peace, quiet, and tranquility of the community and to ensure the compatibility of such uses with other uses permitted within the same zoning district.

B. Uses permitted as a home occupation. Home occupations shall include but are not limited to the following uses:

(1) Artists and sculptors.

(2) Cabinet and furniture making as well as other types of fine woodworking.

(3) Computer programming and support.

(4) Contracting, masonry, plumbing or painting, or other contracting services. However, the storage of equipment and materials at the exterior property areas (i.e., not in an enclosed structure) is not permitted.

(5) Clothing, repair and sales.

(6) Direct sale product distribution (Amway, Avon, Jaffra, Mary Kay, Tupperware, etc.), provided there is no production on the premises.

(7) Drafting and graphic services.

(8) Dressmaking, sewing, tailoring and contract sewing.

(9) Flower arranging.

(10) Gunsmith, who shall be licensed by the ATF. A copy of such license shall be submitted to the Town to document compliance with this subsection.

(11) Hair cutting and styling.

(12) Home cooking and preserving.

(13) Homebound employment of an emotionally, mentally and/or physically handicapped person who is unable to work away from home by reason of his or her disability.

(14) Home crafts, including ceramics with kiln up to six cubic feet, jewelry making, basketry, etc.

(15) Household items, repair and sales.

(16) Locksmith.

(17) Maintenance and repair of equipment, engines, tools and/or vehicles not requiring registration with NYS.

(18) Music composing or instruction.

(19) Pet grooming.

(20) Professional office (e.g., attorney at law, dentist, doctor, financial consultant, insurance agent, real estate agent, registered design professional, etc.).

(21) Quilting.

(22) Saw, scissors, and blade sharpening.

(23) Tailoring.

(24) Television, radio, electronics, and appliance repair.

(25) Tradesman's shop (e.g., carpentry shop, machine shop, welding shop, etc.).

(26) Tutoring, provided that instruction is not given to more than four students at a time, except for occasional groups.

(27) Watch repair.

(28) Other similar uses which have been determined, in the opinion of the Code Enforcement Officer, to meet the intent of this section but shall not be a use prohibited as a home occupation as prescribed herein.

C. Uses prohibited as a home occupation. The following uses by the nature of the investment or operation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and values of the dwelling and are more suited to a commercial or industrial use defined by this chapter. Therefore, the following uses shall be prohibited as a home occupation:

(1) Ambulance service.

(2) Cannabis retail dispensary.

(3) Cultural and/or fraternal activity.

(4) Funeral establishment, hearse service.

(5) Junkyards.

(6) Kennels.

(7) Laundromats and dry cleaning.

(8) Limousine or taxi services that exceed more than one vehicle.

(9) Maintenance and repair of equipment, engines, tools and/or vehicles requiring registration with NYS.

(10) Medical marijuana dispensary.

(11) Place of worship.

(12) Tow truck services.

(13) Tractor trailer operations or parking.

(14) Uses intended for food and/or drink consumption (e.g., bars, night clubs, restaurants, taverns, etc.).

(15) Veterinary facility.

(16) Other similar uses which may, in the opinion of the Code Enforcement Officer, result in a significant adverse impact to the residential use of the subject lot of record or the community.

D. Standards. A home occupation shall comply with the following standards:

(1) Access to a home occupation shall only be taken from a public road.

(2) A home occupation shall be conducted in whole or in part in a single-unit dwelling or an accessory structure that is incidental and subordinate to such dwelling.

(3) No exterior evidence of the presence of a home occupation shall be permitted except as permitted in this section; nor shall the presence of such incidental and subordinate use change the exterior character of the single-unit dwelling.

(a) A home occupation shall not have any outdoor retail sales and/or outdoor storage.

(b) No goods, stock-in-trade, or other commodities and/or services may be displayed outside a fully enclosed structure.

(4) The owner shall have his/her/their permanent place of abode at the subject lot of record in accordance with the records of the Town Assessor and shall be the owner/operator of the home occupation.

(5) Only members of the family residing in the same single-unit dwelling and not more than one other employee shall be employed in the operation of a home occupation.

(6) Not more than one home occupation shall be permitted at a lot of record.

(7) A home occupation located within a single-unit dwelling shall not exceed 50% of the gross floor area of such dwelling. However, a home occupation located in an accessory structure is permitted to occupy the entire structure, but shall comply with the applicable provisions of this chapter and any other applicable law.

(8) Inventory and supplies shall not occupy more than 50% of the gross floor area permitted for a home

occupation.

(9) No traffic shall be generated in substantially greater volumes than would normally be expected from a single-unit dwelling (i.e., a maximum of 10 vehicle trips per day per ITE Trip Generation, 10th edition).

(10) A home occupation shall not involve a high hazard (Group H) occupancy as defined by the Uniform Code.

(11) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with any applicable law.

(12) In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 7:00 p.m.

(13) A home occupation shall be permitted to have one sign that conforms to the following:

(a) A sign for a home occupation shall not be illuminated; and

(b) A sign for a home occupation shall have a maximum sign area of 16 square feet; and

(c) A sign for a home occupation shall have a maximum height of six feet.

§ 350-73. Hospice.

A. Access. Access to a hospice shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Compliance with Public Health Law. A hospice shall comply with Article 40 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

§ 350-74. Hotel.

A. Access. Access to a hotel shall only be taken from a public road.

B. Accessory uses. Accessory uses associated with a hotel, which are but shall not be limited to a restaurant, cafeteria, swimming pool and health facility, newsstand, pharmacy, barbershop, hairdresser, gift shop and other personal service shops for the convenience of guests, shall be classified as an customarily accessory use and shall be permitted.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit or on the lot of record as a detached single-unit dwelling.

E. Compliance with the Sanitary Code. A hotel shall comply with Part 7, specifically Subpart 7-1, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

F. Minimum lot area. A hotel shall be located on a lot of record with a lot area of five acres or more.

§ 350-75. Hotel, extended stay.

This use shall conform to the standards for a hotel as well as the following additional standards:

A. Cooking facilities. Each unit having cooking facilities shall be required to install electrical cooking devices that are equipped with a maximum sixty-minute automatic power off-timer.

B. Maximum stay for individual guest. No individual guests shall register, reside in, or occupy any dwelling unit within an extended stay hotel for more than a ninety-day period.

§ 350-76. Junkyard.

A. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

B. Compliance with the law. This use shall be regulated by the Junkyard Law of the Town, as currently in effect and as hereafter amended from time to time, and/or any other applicable law.[21]

~~**§ 350-77. Kennel.**~~

~~A. Specific definitions. The following terms are specific to the use regulated by this section:~~

~~COMMERCIAL KENNEL — This term shall bear the same meaning as "commercial kennel" that is defined in the Animals Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.[22]~~

~~DOG — This term shall bear the same meaning as "dog" that is defined in the Animals Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.[23]~~

~~EXEMPT KENNEL — This term shall bear the same meaning as "exempt kennel" that is defined in the Animals Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.[24]~~

~~NONCOMMERCIAL KENNEL — This term shall bear the same meaning as "noncommercial kennel" that is defined in the Animals Law of the Town of Milo, as currently in effect and as hereafter amended from time to time.[25]~~

~~B. Animals law. This use shall comply with the applicable provisions of the Animals Law of the Town, as currently in effect and as hereafter amended from time to time.[26]~~

~~C. Other laws. This use shall comply with the applicable provisions of the following state and federal laws:~~

~~(1) Article 7 of the Agriculture and Markets Law of NYS, Licensing, Identification and Control of Dogs, as currently in effect and as hereafter amended from time to time.~~

~~(2) Article 26 of the Agriculture and Markets Law of NYS, Animals, as currently in effect and as hereafter amended from time to time.~~

~~(3) Article 26-A of the Agriculture and Markets Law of NYS, Care of Animals by Pet Dealers, as currently in effect and as hereafter amended from time to time.~~

~~(4) Article 35-D of the General Business Law of NYS, Sale of Dogs and Cats, as currently in effect and as hereafter amended from time to time.~~

~~(5) Title 1 NYCRR Part 65, Importation of Dogs and Cats, as currently in effect and as hereafter amended from time to time.~~

~~(6) United States Animal Welfare Act (AWA), as currently in effect and as hereafter amended from time to time.[27]~~

~~D. Minimum lot area.~~

(1) Commercial kennel. The minimum lot size for a commercial kennel shall be as follows:

(a) Five to 10 dogs, each of which complies with the criteria prescribed in the definition of a "commercial kennel," shall have a minimum lot size of two acres.

(b) Eleven to 20 dogs, each of which complies with the criteria prescribed in the definition of a "commercial kennel," shall have a minimum lot size of three acres.

(c) For each additional one acre beyond three acres, an additional 10 dogs, each of which complies with the criteria prescribed in the definition of a "commercial kennel," is permitted.

(d) The minimum lot size requirements set forth herein shall be waived if the number of dogs, each of which complies with the criteria prescribed in the definition of a "commercial kennel," at a commercial kennel is deemed acceptable by NYSDAM, USDA or a veterinarian.

(2) Exempt kennel. The minimum lot size for an exempt kennel shall comply with the minimum lot size for an essential government service (e.g., municipal animal shelter) or veterinary facility as prescribed by this chapter.

(3) Noncommercial kennel. The minimum lot size for a noncommercial kennel shall comply with the minimum lot size for the applicable zoning district as prescribed by this chapter.

E. Hours of confinement. All dogs shall be confined in a fully enclosed shelter between the hours of 9:00 p.m. and 7:00 a.m.

F. Setbacks.

(1) No outdoor area enclosed by fences for the use of kennels shall be permitted within the front yard or within 50 feet of any side or rear lot line.

(2) Shelters for the use of kennels shall not be closer than 100 feet to any lot line.

G. Standard of care.

(1) State- or federal-licensed kennels. A kennel that is licensed by NYSDAM and/or the USDA shall comply with the minimum standards of care prescribed by such state and/or federal departments.

(2) Other kennels. A kennel that is not required to be licensed by NYSDAM and/or the USDA shall comply with the minimum standards of care prescribed within § 401 of the Agriculture and Markets Law of NYS regardless of whether such kennel is classified as a pet dealer as defined in § 400 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

(3) Veterinary care. All veterinary care shall be provided in accordance with Article 135 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time, and the "Practice Guidelines for Veterinary Medicine and Veterinary Technology in NYS," which such guidelines were developed and approved by the NYS Board for Veterinary Medicine and the NYSED.

H. Complaints.

(1) State- or federal-licensed kennels. Complaints of cruelty, abuse, or neglect of dogs at a kennel that is required to be licensed by NYSDAM and/or the USDA shall be investigated by such state and/or federal department.

(2) Other kennels. Complaints of cruelty, abuse, or neglect of dogs at a kennel that is not required to be licensed by NYSDAM and/or the USDA shall be investigated by any police officer having jurisdiction in the Town or an agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, which such authority is prescribed in § 373

~~of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.~~

~~I. Assistance from a veterinarian. The Code Enforcement Officer and/or designated approval authority shall have the authority to obtain the assistance from a veterinarian as may be deemed necessary and appropriate under the circumstances. The owner shall pay any expense incurred by the Town as it pertains to such assistance.~~

~~Figure 67 - Kennel~~

§ 350-77. Reserved.

§ 350-78. Industrial, heavy or light.

A. Access. Access to an industrial use, whether heavy or light, shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Food processing establishment and commissary.

(1) Access. Access to a food processing establishment and commissary shall only be taken from a public road.

(2) Use classification. A food processing establishment and commissary shall be classified as a light industrial use for the purposes of this chapter.

(3) Caretaker quarters. A caretaker quarters may be provided within the food processing establishment and commissary as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

(4) Compliance with the Sanitary Code. A food processing establishment and commissary shall comply with Part 14 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

D. High volume water withdrawal system.

(1) Compliance with 6 NYCRR Part 601. A high volume water withdrawal system shall comply with 6 NYCRR Part 601, Water Withdrawal Permitting, Reporting and Registration, as currently in effect and as hereafter amended from time to time.

(2) Use classification. A high volume water withdrawal system shall be classified as a heavy industrial use for the purposes of this chapter.

(3) Town Engineer. An application for a high volume water withdrawal system shall be reviewed by the Town Engineer prior to any determination by the designated approval authority.

E. Mining.

(1) Intent. These standards shall apply to any new mining activities in the Town that are not subject to the jurisdiction of Article 15 of the Environmental Conservation Law of NYS or to the Public Lands Law of NYS, as currently in effect and as hereafter amended from time to time.

(2) Use classification. Mining shall be classified as a heavy industrial use for the purposes of this chapter.

(3) Town Engineer. An application for any new mining activities in the Town shall be reviewed by the Town Engineer prior to any determination by the designated approval authority.

(4) Application. In addition to the application requirements for a special use permit as prescribed by this chapter, the owner shall submit all of the following additional information:

(a) A survey, which shall be prepared and sealed by a land surveyor, of the entire site on which the mining activity is proposed showing topography, the locations of all streams, wetlands and other bodies of water and existing vegetation.

(b) A site plan, which shall be prepared and sealed by a registered design professional, showing the lands to be mined, all proposed buildings or structures, equipment, parking or storage areas, access roadways and all required buffer areas and visual barriers.

(c) A mined land use plan that is in compliance with § 23-2713 of the Environmental Conservation Law of NYS, as currently in effect and as hereafter amended from time to time. If the proposed mining activities are not applicable to such law, the provisions of this section of state law shall still be satisfied but the designated approval authority shall be substituted for the term "department."

(d) Information shall be prepared and sealed by a registered design professional as it pertains to the width, bearing capacity and type of road surface of all Town roads proposed to be used by truck traffic to or from the site and the nearest county or state highway, and the weight of the vehicles using the facility.

(e) Any other information deemed reasonable and necessary by the designated approval authority.

(5) Standards.

(a) Access.

[1] Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby lands. Access drives used by trucks shall only intersect with a county- or NYS-designated road.

[2] All vehicular access shall be designed and located so as to permit the following minimum sight distances measured from a point at least 10 feet behind the curbline or edge of the right-of-way of an intersecting public road. No sight obstructions shall be permitted which are greater than three feet or less than 10 feet above the road's surface.

Table 3 — Sight Distances

Speed Limitation on Public Road (mph)	Required Sight Distance (feet)
25	250
30	275
35	315
40	350
45	426
50	475
55	550

[3] The design of all vehicular access shall be prepared and sealed by a registered design professional and such design shall comply with the applicable requirements for a fire apparatus

access road prescribed in the Uniform Code.

[4] In general, vehicular access shall intersect public roads at 90° as site conditions permit, however in no case shall access drives intersect public roads at less than 70°. Such angle shall be measured from the center line of the public road to the center line of the access drive.

(b) Fencing. In order to protect life and safety, a fence measuring at least six feet in height shall enclose all mining activities. If a chain-link fence is used, such fence shall include a vegetative screen that is provided along the outside of the fence.

(c) Financial security for reclamation. The owner shall provide evidence that the financial security for reclamation as prescribed by § 23-2715 of the Environmental Conservation Law of NYS, as currently in effect and as hereafter amended from time to time, has been provided. If the proposed mining activities are not applicable to such law, the provisions of this section of state law shall still be satisfied but the designated approval authority shall be substituted for the term "department." Lastly, the designated approval authority shall determine the amount, condition, and terms of the financial security based on the written recommendations of the Town Attorney and Town Engineer.

(d) Minimum lot area. A lot of record containing a mining activity shall have a minimum lot area of 25 acres.

(e) Screening. Where a lot of record containing a mining activity is contiguous to a boundary of a zoning district, a lot of record containing an existing residential use and/or a public road, screening shall be provided that is comprised of an earthen berm at least 10 feet in height. Such berm shall be located on the lot of record containing the mining activity and placed so as to maximize the berm's ability to absorb and/or block views of and/or noise, dust, smoke, etc., generated by the mining activities. The berm shall also be completely covered and maintained with an approved vegetative ground cover. In addition, a landscape screen shall also be provided atop of such berm. The landscape screen shall consist of evergreen shrubs and trees arranged to form both a low-level and a high-level screen within a strip of land with a minimum width of 10 feet. The high-level screen shall consist of evergreen trees of not less than five feet in height at the time of planting that shall be planted at intervals of not more than 10 feet. The low-level screen shall consist of evergreen shrubs of not less than three feet in height at the time of planting that shall be planted at intervals of not more than five feet. The landscape screen shall be permanently maintained.

(f) Setbacks.

[1] Any excavation or quarry wall, and any equipment used for rock, gravel, soil or mineral crushing or other processing, shall be located a minimum of 250 feet from a contiguous lot of record or public road, which the later shall include its right-of-way.

[2] No internal roadways (AKA "private roads") within the lot of record shall be closer than 200 feet from contiguous lot of record.

[3] No buildings or structures, equipment, parking spaces or storage areas shall be closer than 100 feet from a contiguous lot of record or public road, which the later shall include its right-of-way.

[4] No mining activities, buildings, structures, parking areas, equipment or production storage areas shall be located within 100 feet from a stream or any wetland as defined by local, state or federal law.

(g) Traffic impact. The owner proposing a mining activity at a lot of record shall submit a traffic impact study prepared and sealed by a registered design professional. Furthermore, such owner shall comply with the applicable provisions of the Highways and Private Roads Law of the Town, as currently in effect and as hereafter amended from time to time,[28] which may require such owner to submit additional information in order to obtain a highway preservation use and repair permit. Lastly,

the owner shall submit evidence that approval has been obtained from the AHJ (e.g., Highway Superintendent of the County, NYSDOT, etc.) as it pertains to the use of other public roads for the mining activity.

F. Underground gas storage facility.

(1) Use classification. An underground gas storage facility shall be classified as a heavy industrial use for the purposes of this chapter.

(2) Town Engineer. An application for an underground gas storage facility shall be reviewed by the Town Engineer prior to any determination by the designated approval authority.

(3) NYSDEC. Approvals such as but not limited to a well permit and underground storage permit are required to be issued by the NYSDEC prior to the commencement of operations and/or work for an underground gas storage facility. A copy of such approvals shall be submitted to the Town.

G. Prohibited industrial uses. The following industrial uses are prohibited in the Town:

(1) Acetylene gas manufacture for commercial purposes.

(2) Ammonia, chlorine and/or bleaching powder manufacture.

(3) Arsenal.

(4) Asphalt manufacture and/or refining.

(5) Blast furnace, not including cupola and/or converter furnaces used in foundries and/or inverter furnaces used in foundries and in which no wood is used as fuel.

(6) Boiler shops, structural steel fabricating shops, metalworking shops, which operate reciprocating hammers and/or chisels and/or other noise-producing electric and/or pneumatic tools within 100 feet of any contiguous lot of record and outside of any masonry buildings.

(7) Bronze and/or aluminum powder manufacture.

(8) Carbon, lampblack, shoe blacking, graphite and/or stove polish manufacture.

(9) Celluloid and/or other cellulose products manufacture.

(10) Coal tar products manufacture.

(11) Creosote treatment and/or manufacture.

(12) Disinfectant and/or insecticide manufacture.

(13) Disposal, storage and/or treatment of natural gas and/or petroleum exploration, extraction and/ or production materials by high volume hydraulic fracturing.

(14) Disposal, storage and/or treatment of natural gas and/or petroleum exploration, extraction and production wastes by hydraulic fracturing.

(15) Disposal of radioactive material.

(16) Distillation of coal, wood and/or bones.

(17) Excelsior and/or fiber manufacture.

(18) Exploration for or extraction of natural gas and/or petroleum by high volume hydraulic fracturing.

(19) Explosives, fireworks and/or match manufacture, assembling or storage in bulk, except the manufacture,

assembling and/or storage in bulk of safety matches in book form.

(20) Fat rendering.

(21) Fertilizer manufacture and/or potash refining.

(22) Glue and/or gelatin manufacturing and/or processing involving recovering from fish and/or animal offal.

(23) Incinerator, unless operated by the Town.

(24) Lime, gypsum, cement, plaster and/or plaster of paris manufacture, except the mixing of plaster.

(25) Linoleum and/or oil cloth manufacture.

(26) Natural gas and/or petroleum support activities for high volume hydraulic fracturing.

(27) Natural gas and/or petroleum wastes dump.

(28) Ore reduction and/or the smelting of iron, copper, tin, zinc and/or lead.

(29) Paint, oil varnish, turpentine, shellac and/or enamel manufacture, except the mixing of wet paints.

(30) Perfume and/or extract manufacture.

(31) Petroleum refining.

(32) Poisons manufacture, fumigates, carbon disulphide, hydrocyanic acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellebore and/or paris green, contact insecticides, lime, sulfur, nicotine and/or kerosene emulsions.

(33) Printing ink manufacture.

(34) Radium extraction.

(35) Solid waste management facility.

(36) Storage, coloring, curing, dressing and/or tanning of raw, green salted hides and/or skins.

(37) Rubber caoutchouc and/or gutta percha manufacture from crude and/or scrap material, except in connection with a rubber products manufacture plant.

(38) Soap, soda ash and/or washing compound manufacture, except products not containing caustic soda.

(39) Starch, glucose and/or dextrine manufacture.

(40) Sulfurous, sulfuric, nitric, picric and/or hydrochloric acid and/or other corrosive and/or offensive acid manufacture and/or their use and/or storage, except on a limited scale as accessory to a permitted industry.

(41) Tallow, grease, lard and/or candle manufacture and/or refining.

(42) Tar distillation and/or the manufacture of aniline dyes.

(43) Tar roofing and/or waterproofing manufacture, except where the tar and/or asphalt is treated at a temperature under 100° F.

(44) Wool pulling and/or scouring, except in connection with a woolen mill.

(45) Yeast manufacture.

§ 350-79. Manufactured housing community.

A. Specific definitions. The following terms are specific to the use regulated by this section:

MANUFACTURED HOUSING COMMUNITY SITE — A designated parcel of land in a manufactured housing community designed for accommodating one manufactured home, its accessory structures and accessory equipment for the exclusive use of the occupants of the manufactured home.

OPEN SPACE — Any area of land and/or water within a manufactured housing community, not individually owned or publicly dedicated, that is designed and intended for the common use or enjoyment of such community's occupants and their guests and may include recreational improvements as are necessary and appropriate. A maintenance and ownership agreement shall be prepared, approved by the Town Attorney and recorded at the Office of the County Clerk for all proposed open space. The Town shall not be held responsible for any ownership or maintenance of any proposed open space.

SERVICE BUILDING — A structure built to accommodate services for the occupants of the manufactured housing community, such as but not limited to the management office, indoor recreational facilities (e.g., gym, indoor swimming pool, etc.) and light commercial uses supplying essential goods or services (e.g., convenience store, ice cream parlor, laundry facilities, etc.). Such services may be open to the public but the structure accommodating such service shall be located so it is adjacent to a public road, separated from a manufactured housing community side by 25 feet and shall provide the minimum number of parking spaces required for such use as prescribed by this chapter.

B. Compliance with the Sanitary Code. A manufactured housing community shall comply with Part 17 of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time, regardless of its applicability. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

C. Existing manufactured housing community.

(1) Classification as a nonconforming use. An existing manufactured housing community that does not meet the standards set forth in this section shall be classified as a nonconforming use.

(2) Modifications at an existing manufactured housing community. Any modifications to an existing manufactured housing community that causes a nonconforming element to become more conforming to an applicable provision of this chapter shall be permitted as a right.

(3) Replacement of a manufactured home. An existing manufactured home located at an existing manufactured housing community is permitted to be replaced without requiring nonconforming elements of such community to be rectified nor a variance approved by the designated approval authority.

D. Standards.

(1) Access. Access to a manufactured housing community shall only be taken from a public road.

(2) Buffer. A buffer shall be installed at the perimeter of a lot of record containing a manufactured housing community.

(3) Interior roads. An interior road located within a manufactured housing community shall be classified as a private road and shall be designed, constructed and maintained pursuant to law.

(4) Landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record. No recreational activities, parking and/or structures shall be allowed in this buffer.

(5) Manufactured housing community.

(a) A manufactured housing community shall be located on a lot of record with a lot area of 20 acres or more.

(b) A manufactured housing community shall be located on a well-drained site and shall be designed

and maintained as not to create a public health hazard or nuisance, and shall meet all applicable provisions of law.

(c) Any building, manufactured home and/or structure shall be set back a minimum distance of 25 feet from any of the lot lines of a lot of record whose principal use is a manufactured housing community.

(d) All utilities shall be located underground.

Figure 350-82: Site Plan of a Manufactured Housing Community

(6) Manufactured housing community site.

(a) A manufactured home community site shall have a driveway that will ensure safe and easy access under normal use and weather conditions.

(b) A manufactured home installed at a manufactured housing community site shall be set back a minimum of 10 feet from an abutting edge of a right-of-way of an interior road.

(c) A manufactured home installed at a manufactured housing community site shall be set back a minimum of 10 feet from such site's side lines.

(d) A manufactured home installed at a manufactured housing community site shall be set back a minimum of 10 feet from such site's rear line.

(e) A maximum of one private garage, which shall be less than 144 gross square feet, may be erected on a manufactured housing community site.

(f) The outdoor storage of marine and/or recreation vehicles shall not be permitted on a manufactured housing community site.

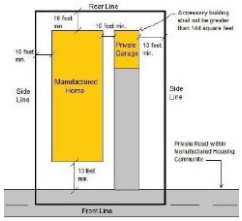


Figure 350-83: Manufactured Housing Community Site

(7) Open space. A lot of record whose principal use is a manufactured housing community shall dedicate a minimum of 10% of the lot area to open space, which such space shall comply with the following minimum standards:

(a) For the purpose of calculation of the open space, such space shall be separate and distinct from required buffers, setbacks and yards. Open space may also include wetlands and their buffers, other critical environmental areas, and stormwater facilities.

(b) All open space shall include any two or more facilities for active and/or passive recreation from the lists below.

[1] Active recreation facilities.

[a] Children's play equipment, such as slides, swings, and play structures.

[b] A paved hard court for activities such as basketball, tennis, pickleball, etc.

[c] A flat, open lawn area that may serve as a ball field for active play.

[d] Golf orientated facility.

[e] Swimming pool.

[f] Other type of active recreation facility approved by the designated approval authority.

[2] Passive recreation facilities.

[a] Facilities for walking, such as trails, benches, etc.

[b] Picnicking facilities, such as picnic tables, shelters, etc.

[c] Year-round water features, such as a fountain, pond, stream, etc.

[d] Other types of passive recreation facility approved by the designated approval authority.

Figure 350-84: Recreational Facilities at a Manufactured Housing Community

(c) The open space shall have access for residents of the manufactured housing community and shall be consolidated to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance. The requirement that the open space be consolidated may be waived by the designated approval authority upon a finding that the residents of the manufactured housing community would receive a greater benefit if the required open space were provided in another configuration due to the unique topographic conditions or fish and wildlife habitat values of the lot of record.

(8) Outdoor storage of marine and/or recreational vehicles. A manufactured housing community may include a designated area for the parking of marine and/or recreation vehicles, which may not be considered as part of the open space requirement of this section. Furthermore, such designated area shall be set back a minimum of 50 feet from any manufactured home as well as any lot line of the lot of record whose principal use is a manufactured housing community. Lastly, such storage shall be executed in a safe manner and shall not obstruct any means of egress or road.

(9) Service buildings.

(a) A service building shall be a permanent structure that is constructed in accordance to the applicable provisions of the Uniform Code.

(b) A service building provided within the manufactured housing community shall be set back from a manufactured home by 10 feet.

Figure 350-85: Service Building (i.e., Laundry Facility) at a Manufactured Housing Community

§ 350-80. Marina.

A. Access. Access to a marina shall only be taken from a public road.

B. Accessory uses. Accessory uses associated with a marina, which are but shall not be limited to fueling, repairs and maintenance, hauling and indoor storage, retail sales, and yacht club facilities, including restaurant or lounge, shall be classified as a customarily accessory use and shall be permitted.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit or on the lot of record as a detached single-unit dwelling.

E. Marine vessels prohibited as permanent living quarters. Marine vessels shall not be utilized as permanent living accommodations. Such vessels may be utilized for temporary sleeping or living accommodations, provided that an adequate shoreline pump-out installation is provided and is approved by the AHJ.

F. Outdoor storage of boats and/or boat trailers may be permitted at a marina by the means of a special use permit if the following additional determination criteria are satisfied:

(1) Such storage shall be effectively screened from view from a contiguous lot of record containing a residential use; and

(2) Such storage shall not exceed 40% of the lot area at the subject lot of record.

G. Rear yard. An accessory and/or principal building at a marina is permitted to have a rear yard that is contiguous to Keuka Lake or Seneca Lake of zero feet.

Figure 350-86: Site Plan of a Marina

§ 350-80.1. Medical marijuana dispensary.

A. Compliance with the law. No person or entity shall produce, grow, or sell medical marijuana or hold itself out as an NYS-licensed organization unless it has complied with Article 33 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time, and/or any other applicable law.

B. Approved products. A medical marijuana dispensary shall only dispense approved medical marijuana products in accordance with Article 33 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time, and/or any other applicable law.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for

review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Building requirements.

(1) A medical marijuana dispensary shall operate within a permanently constructed, fixed structure. It is prohibited to operate from a vehicle or within a nonpermanent structure.

(2) A medical marijuana dispensary shall have its means of egress independent from any other use and shall directly discharge to a public way. For the purposes of this section, "means of egress" and "public way" are defined by the Uniform Code.

(3) A medical marijuana dispensary shall only dispense approved medical marijuana products in an indoor, enclosed, secure facility.

(4) A medical marijuana dispensary shall have a security system to prevent and detect diversion, theft, or loss of marijuana and/or medical marijuana products, using commercial grade equipment.

E. Licenses and/or permits. A medical marijuana dispensary shall submit evidence that all necessary licenses and/or permits have been obtained from NYS and all other AHJs to the Town. Said licenses and/or permits shall be posted in a conspicuous place, near the main exit or exit access doorway.

F. Location restriction(s).

(1) A medical marijuana dispensary shall not be located and/or operated within 500 feet of:

(a) A place of worship; or

(b) A building containing a child day-care establishment; or

(c) A building containing a school; or

(d) A park; or

(e) A building containing a residential use and/or Residential Group R use and occupancy as defined by the New York State Uniform Fire Prevention and Building Code; or

(f) A structure or facility providing, whether wholly or partially, an essential public service; or

(g) A building containing licensed premises as defined by § 3 of the Alcoholic Beverage Control Law of the State of New York, as currently in effect and as hereafter amended from time to time; or

(h) A building containing another medical marijuana dispensary;

(i) A correctional facility.

(2) For the purpose of this subsection, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a medical marijuana dispensary is conducted to the nearest portion of the building or structure of a restricted location listed herein. Presence of a Town, village or other political subdivision boundary shall be irrelevant for purposes of calculating and applying these distance requirements.

G. Prohibited action(s). A medical marijuana dispensary shall not dispense approved medical marijuana products from the same location where the marijuana is grown or manufactured.

§ 350-80.2. Midwifery birth center.

A. Compliance with the law. A midwifery birth center shall comply with the 10 NYCRR, Chapter V, Subchapter C, Part 795, as currently in effect and as hereafter amended from time to time, and any other applicable law. Where,

in any specific case, conflicts occur between the provisions of this chapter and such state law, the more restrictive requirement shall govern.

B. Accreditation of a midwifery birth center; approval to operate.

(1) A midwifery birth center shall be accredited as prescribed in § 795.11 of 10 NYCRR, Chapter V, Subchapter C, Part 795, as currently in effect and as hereafter amended from time to time.

(2) A midwifery birth center shall be approved to operate by the Commissioner of Health.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

§ 350-81. Motel.

A. Access. Access to a motel shall only be taken from a public road.

B. Accessory uses. Accessory uses associated with a motel, which are but shall not be limited to a restaurant, cafeteria, swimming pool and health facility, newsstand, pharmacy, barbershop, hairdresser, gift shop and other personal service shops for the convenience of guests, shall be classified as an customarily accessory use and shall be permitted.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

E. Compliance with the Sanitary Code. A hotel shall comply with Part 7, specifically Subpart 7-1, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

F. Minimum lot area. A motel shall be located on a lot of record with a lot area of five acres or more.

§ 350-82. Museum.

A. Access. Access to a museum shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

§ 350-83. Nursery, retail.

A. Access. Access to a retail nursery shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Registration. A nursery dealer or nursery grower shall be registered with NYSDAM as prescribed by Article 14 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

E. Setbacks. The following setbacks are required in addition to those of the zoning district:

(1) Any and all mechanized firewood equipment not located within an enclosed structure shall be located a minimum of 100 feet from any contiguous lot of record.

(2) Outdoor storage of nursery materials and/or products as well as nursery display areas shall meet all the setback requirements applicable to accessory structures.

§ 350-84. Outdoor retail sales.

A. Area. Outdoor retail sales shall not occupy more than 40% of the lot area at the lot of record. Exemption(s):

(1) Agricultural business.

(2) Agricultural fairground.

(3) Agricultural service use (e.g., tractor sales).

(4) Nursery, retail.

(5) Vehicle rental and sales establishment.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Conjunction with permitted commercial use. Outdoor retail sales shall only be allowed in conjunction with a principal building whose use is commercial, whether heavy or light in nature.

D. Pedestrian and/or vehicle traffic. Outdoor retail sales shall not encroach upon any driveway, means of egress and/or required loading or parking space. In addition, outdoor retail sales shall not obstruct sight distances or otherwise create hazards for pedestrian and/or vehicle traffic.

E. Outdoor retail sales of machinery and/or vehicles.

(1) Machinery and/or vehicles shall be stored in an orderly manner and shall be maintained in a good state of repair.

(2) Partially dismantled or wrecked machinery and/or vehicles shall be stored in an enclosed building or an area that is sufficiently screened from public view.

§ 350-85. Outdoor sportsperson club.

A. Access. Access to an outdoor sportsperson club shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Indoor recreational facilities. Any type of indoor recreational facility shall be designed that it absorbs or dissipates noise from the firing of weapons and/or any mechanical equipment.

E. Minimum lot area. An outdoor sportsperson club shall be located on a lot of record with a lot area of 60 acres or more.

F. Outdoor recreational facilities. Any type of outdoor recreational facility shall be set back a minimum of 100 feet from any lot line.

G. Pro shop. A pro shop, which sells and services outdoor sportsperson's equipment and merchandise, is permitted as an accessory use at an outdoor sportsperson club.

(1) ATF. Any use engaged in the sales and service of firearms shall obtain the applicable license issued by the ATF. A copy of such license shall be submitted to the Town to document compliance with this subsection.

H. Shooting range facilities. The planning, design, construction and maintenance of shooting range facilities shall comply with the NRA Range Source Book.

§ 350-86. Outdoor wood boiler.

A. Compliance with the 6 NYCRR Part 247. An outdoor wood boiler shall comply with 6 NYCRR Part 247, Outdoor Wood Boilers, as currently in effect and as hereafter amended from time to time.

§ 350-87. Place of worship.

A. Access. Access to a place of worship shall only be taken from a public road.

B. Accessory uses. Accessory uses associated with a place of worship, which are but shall not limited to convents, meeting halls, monasteries, parish houses, parsonages, rectories and/or seminaries shall be classified as an customarily accessory use and shall be permitted.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

~~**§ 350-88. Planned unit development.**~~

~~A. Findings. The Town hereby finds and determines that:~~

~~(1) When coordinated with the Comprehensive Plan, a planned unit development can be an effective tool for guiding development in ways that support community goals and priorities.~~

~~(2) Planned unit development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional zoning techniques, planned unit development provides flexibility in the regulation of land use development in order to:~~

~~(a) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures;~~

~~(b) Enhance efficiency in the use of land, natural resources, energy, community services and utilities;~~

~~(c) Encourage open space preservation and protection of natural resources, historic sites and structures;~~

~~(d) Facilitate the provision of housing and improved residential environments; and~~

~~(e) Enhance the ability of the Town to promote business and employment opportunities.~~

~~B. Specific definitions. The following terms are specific to the use regulated by this section:~~

OPEN SPACE — Any area of land and/or water within a planned unit development, not individually owned or publicly dedicated, that is designed and intended for the common use or enjoyment of such development's occupants and their guests and may include recreational improvements as are necessary and appropriate. A maintenance and ownership agreement shall be prepared, approved by the Town Attorney and recorded at the office of the County Clerk for all proposed open space areas. The Town shall not be held responsible for any ownership or maintenance of any proposed open space.

C. Eligibility criteria. To be eligible for approval of a planned unit development, the applicant shall demonstrate that the following criteria will be met:

(1) Availability and capacity of public services. The proposed type and intensity of use shall not exceed the existing or planned capacity of existing public services and facilities, including police and fire protection, traffic capacity of the Town's roads, drainage and stormwater management facilities, availability of water, capacity of private septic or public sanitary sewer treatment facilities, refuse disposal, and educational services.

(2) Compatibility. The proposed development shall be consistent with the intent and spirit of this chapter as stated in this section.

(3) Economic impact. The proposed development shall not impede the continued use or development of surrounding lots of record for uses permitted by this chapter.

(4) Unified control. The proposed development shall be under single ownership or unified control, where a single entity has responsibility for completing the project.

(5) Sufficient land area for proposed uses. The planned unit development shall be a minimum of 10 acres of contiguous land. Additional noncontiguous land areas within the Town may be included as part of the proposed open space dedications for a planned unit development. The proposed development shall provide sufficient land area to comply with all applicable regulations of this section, adequately serve the needs of all permitted uses in the planned unit development, and ensure compatibility between uses and the surrounding neighborhood.

D. Standards. A planned unit development shall comply with the following standards:

(1) Architecture. A planned unit development shall incorporate a consistent architectural theme which is unique to the specific site through the use of materials, signage and design. Generic corporate architecture and big box designs are strongly discouraged but not prohibited. Uses should be designed according to the limitation of the site rather than the removal of the limitations. Specific design details, such as roof parapets, architectural details, varying roof heights, pitches and materials and building colors and materials, should be addressed.

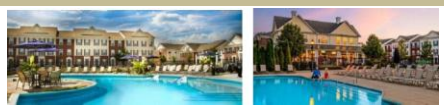


Figure 73 - Architecture at a Planned Unit Development

(2) Compatibility of uses. The design of a planned unit development shall take into account the relationship of the site to the surrounding areas and between differing uses on the site. The perimeter of the planned unit development and arrangement of uses at such development shall be designed to minimize adverse impacts between the project and adjacent land uses, and different types of potentially incompatible land uses. Compatibility factors include but are not necessarily limited to visual and audio intrusion and conspicuous visual barriers.

(3) Density. The number of dwelling units proposed for a planned unit development is permitted to be 1.5 times the maximum density permitted for a lot of record at an applicable zoning district. Moreover, the following density bonuses may be awarded by the designated approval authority that will allow a planned unit

~~development to increase such maximum density.~~

~~(a) Accessibility. Up to a 10% density bonus may be granted for the provision of making sites, facilities, buildings, and elements accessible pursuant to ICC/ANSI A117.1 - Accessible and Usable Buildings and Facilities.~~

(b) Agriculture. A 1% density bonus may be granted for each additional 1% of the site that will preserve farm operations. However, such bonus shall not exceed 10% regardless of the amount of proposed farm operations.

(c) Amenities. Up to a 10% density bonus may be granted for the provision of amenities, such as but not limited to child care services, dining facilities, laundry services, parks as well as indoor and outdoor recreation facilities (e.g., swimming pools, gyms, playgrounds, walking trails, golf courses, etc.) considered beneficial to the planned unit development. Such amenities shall not be required to be accessible to the public.

Figure 74 - Amenities at a Planned Unit Development

(d) Blight. Up to a 10% density bonus may be granted for the cleanup of a blighted site, contamination removal or demolition of obsolete structures.

(e) Fire detection system, monitored. Up to a 10% density bonus may be granted for the provision of a monitored fire detection system in all buildings and/or structures. To be eligible for this bonus, such system shall be designed, installed and maintained in accordance to the reference standard(s) described within the Uniform Code.

(f) Fire protection system. Up to a 10% density bonus may be granted for the provision of a fire protection system in all buildings and/or structures. To be eligible for this bonus, such system shall be designed, installed and maintained in accordance to the reference standard(s) described within the Uniform Code.

(g) Historic preservation. Up to a 10% density bonus may be granted for preservation and adaptive reuse of historically or architecturally significant buildings or structures, which such classification shall be determined by the County Genealogical and Historical Society or approved equivalent authority, that are located on the site.

(h) Noncombustible siding. Up to a 10% density bonus may be granted for the provision of noncombustible siding at all buildings and/or structures.

(i) Open space. A 1% density bonus may be granted for each additional 1% of the site that will be designated as common open space. However, such bonus shall not exceed 10% regardless of the amount of proposed common open space.

(j) Renewable energy systems. Up to a 10% density bonus may be granted for the provision of renewable energy systems, such as but not limited to solar photovoltaic and/or thermal systems and wind energy conversion system. Such amenities shall not be required to be connected to a public service agency.

(4) Dimensional standards for lots of record.

(a) Building height. Building height may exceed the maximum permitted in the underlying zoning district by 20%, provided that the project design protects adjacent uses both inside and outside of the planned unit development from adverse impacts on privacy, light and air.

(b) Building coverage. Building coverage of individual lots of record may exceed the maximum percentage permitted by the underlying zoning district by 20%, provided that the planned unit development meets the standards of this section.

(c) Lot depth, size and width. The minimum lot depth, size and width of the underlying zoning district may be reduced provided the planned unit development meets the design standards of this section.

(d) Yard. The minimum yard dimensions of the underlying zoning district may be reduced provided that the planned unit development meets the design standards of this section and it is demonstrated:

[1] A better or more appropriate design can be achieved by not applying the provision of the zoning district; and

[2] That compensating design and/or structural measures are used to ensure the protection of the users and inhabitants of the development health, safety and welfare, including but not necessarily limited to visual and acoustical privacy, and adequate light and air.

(5) Landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record. No recreational activities, parking and/or structures shall be allowed in this buffer.

(6) Open space. Usable open space(s) shall be provided in an amount equal to or greater than 10% of the total area of a lot of record(s) that is the subject of a planned unit development. These spaces may be provided in the form of parks, plazas, arcades, commons, trails, sports courts or other athletic and recreational areas, outdoor areas for the display of sculptural elements, etc. Land reservations for community facilities may be considered in lieu of usable open space.

Figure 75 - Open Space at a Planned Unit Development

(7) Privacy and security. The design of the site and dwelling units should promote privacy and security consistent with crime prevention through environmental design (CPTED) strategies.

(8) Signage. A consistent signage theme shall be provided within a planned unit development. Freestanding signs shall be monument style and of a size and height that is complimentary of the architecture of the development.

Figure 76 - Signage at a Planned Unit Development

(9) Transportation system. A planned unit development shall incorporate transportation elements, which allow for connections to existing developments or undeveloped land both within and

~~outside such development. These transportation elements should provide for improvements through road designs, and ingress and egress to the existing transportation network depending on the foreseeable needs of future residents and users of the site, and the relationship of the project site to the community at large.~~

§ 350-88. Planned unit development district.

A. Purpose.

(1) When approved by the designated approval authority, a planned unit development district shall be a new zoning district that replaces the existing zoning district(s) for the lands incorporated into a planned unit development. For that reason, the creation of this district is an amendment to this Chapter and the Zoning Map. Furthermore, the uses and standards prescribed in the master plan approved by the designated approval authority are the uses and standards for this district. Lastly, the Zoning Map shall identify each planned unit development district.

(a) For clarification purposes, the amendment to this Chapter and the Zoning Map to create a planned unit development district shall not be deemed as "spot zoning" since this type of amendment is authorized by § 261-C of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

(2) The Town Board hereby finds and determines that a planned unit development district can be an effective tool for guiding development to achieve goals prescribed by the Comprehensive Plan. Through the flexibility of the planned unit development technique, the Town Board seeks to achieve the following specific objectives:

(a) Create a more desirable environment than would be possible through the strict application of this Chapter; and

(b) Create a development that adheres to high standards of aesthetics/appearance, building and site design quality, property management, and public health and safety that shall positively impact the overall desirability of the community; and

(c) Create and preserve open space and the protection of natural resources as well as historic sites and structures; and

(d) Create a variety of attractive housing types and residential environments; and

(e) Creates a public benefit; and

(f) Enhance the ability of the Town to promote economic development and employment opportunities; and

(g) Provide an opportunity and incentive to an owner to achieve excellence in economic, environmental, physical, social planning.

B. Prohibited action(s).

(1) Agricultural district. Any land located within a NYS certified agricultural district that is receiving an agricultural assessment by the Town Assessor and/or Agricultural zoning district of the Town shall not be converted into a planned unit development district.

(a) Exception(s):

[1] A planned commercial / industrial development that contains one (1) or more of the following uses:

[a] Agricultural fairground.

[b] Agricultural business.

[c] Agricultural service use.

[d] Agricultural tourism.

[e] Farm operation.

[f] Other uses were determined by the designated approval authority based on the recommendations of the Agricultural Advisory Committee.

C. Authority. The Town Board is authorized to enact, as part of this Chapter, procedures and requirements for the establishment and mapping of planned unit development zoning districts pursuant to § 261-C of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

D. Designated approval authority. The Town Board is the designated approval authority as it pertains to denying or creating planned unit development zoning districts within the Town.

E. Specific definitions. The following terms are specific to the use regulated by this section:

(1) COMMUNITY BUILDING – A building owned in common by the planned unit development and designated for multipurpose uses by this development. This building shall be consistent with the design and scale of this development, and its uses shall be accessory in nature (e.g., gym, community gathering room, laundry services, etc.).

Figure 350-87: Example of a community building

(2) GANTT CHART – A project schedule that maps tasks over a visual timeline which shows the order in which they'll be completed, when they're due, their duration and other details about them such as their percentage of completion.

(3) LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) – A green building certification program used worldwide. Developed by the non-profit U.S. Green Building Council (USGBC), it includes a set of rating systems for the design, construction, operation, and maintenance of green buildings, homes, and neighborhoods, which aims to help building owners and operators be environmentally responsible and use resources efficiently.

(4) LEED FOR NEIGHBORHOOD DEVELOPMENT (LEED-ND) – A United States-based rating system that integrates the principles of smart growth, urbanism, and green building into a national system for neighborhood design. LEED certification provides independent, third-party verification that a development's location and design meet accepted high levels of environmentally responsible, sustainable development.

(5) MASTER PLAN – Documents describing and illustrating a planned unit development that are in color, to scale, and prepared by a Registered Design Professional, unless stipulated otherwise in this definition. These documents shall be of sufficient clarity to indicate the location, nature and extent of this development and show in detail that it will conform to this Chapter and any other applicable law as determined by the designated approval authority. Lastly, these documents shall include but are not limited to all the following:

(a) Written statement explaining in detail the type of planned unit development (e.g., planned commercial / industrial development, planned residential development, or planned resort development) and its proposed uses.

(b) Written statement explaining in detail how the planned unit development is in conformance with eligibility criteria prescribed herein.

(c) Written statement explaining in detail the character of the planned unit development and how it provides public benefits.

(d) Evidence of the applicant's physical and financial competence to carry out the planned unit development and his/her/their awareness of the scope of such development.

[1] Such evidence shall be agreements, contracts, covenants, deed restrictions, and/or sureties acceptable to the Town Attorney for the completion of this development according to the master plan and any other documents of record, and for the maintenance of such areas, functions, and facilities as are not to be provided, operated, or maintained at public expense, and shall place covenants on the lands incorporated in this development to bind any successors in title to any commitments made under this section.

(e) Architectural documents.

(f) Civil engineering documents (e.g., roads, utilities, etc.).

(g) Construction schedule.

[1] This schedule shall be a Gantt chart and contain sufficient information to convey the sequence of work.

[2] If a planned unit development is proposed in phases, the construction schedule shall identify all phases.

(h) Demolition documents, if applicable.

(i) Erosion control and stormwater pollution prevention documents.

(j) Exterior lighting documents (e.g., photometric plan, manufacturer's specification sheets, etc.).

(k) Landscaping plan(s).

(l) Open space documents.

(m) Parking demand study, if applicable.

(n) Sign control documents, which shall include any traffic control devices required by the MUTCD and its associated NYS supplement, as currently in effect and as hereafter amended from time to time.

(o) Site plans.

[1] If a planned unit development is proposed in phases, the site plan shall identify all phases.

(p) Structural documents.

(q) Survey and legal description of lands incorporated within this development, which shall be prepared by and signed/sealed by a Land Surveyor.

(r) Traffic impact study prepared by and signed/sealed by a Professional Traffic Operations Engineer (PTOE) if mandated by an AHJ (e.g., NYSDOT, Highway Superintendent, etc.).

(6) OPEN SPACE – Any area of land and/or water that is retained for use as recreational activities, and/or for environmental resource protection. Right-of-ways and roads shall not be included as open space. However, open space may be utilized for erosion and stormwater control facilities.

(7) PERMANENT POOL – Open area of water impounded by a dam, embankment or berm, designed to retain water at all times.

(8) PORTABLE DOCUMENT FORMAT (PDF) – A file format developed by Adobe to present documents, including text formatting and images, in a manner independent of application software, hardware, and operating systems.

(9) PUBLIC BENEFITS – The following shall be categorized as a public benefit for the purposes of this section:

(a) Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation.

(b) LEED basic certification for all structures.

(c) LEED-ND certification.

(d) High-quality architectural and site design as well as the use of high-quality building materials that enhances the physical and environmental conditions of a development for its occupants as well as the character of the community.

(e) Preservation and enhancement of historical or cultural resources that contribute significantly to the character of the Town.

(f) Transfer of development rights approved by the Town Board.

(g) Any other public benefit that is determined by the Town Board.

F. Eligibility. The land(s) proposed to be incorporated into a planned unit development district shall satisfy the following criteria:

(1) Availability of public services. A planned unit development district shall not exceed the existing or planned capacity of public services and facilities including but not limited to availability of potable water, capacity of an onsite wastewater treatment system (a.k.a., septic system) or public sanitary swage distribution and treatment systems, drainage and stormwater control facilities, educational services, emergency medical services, fire protection, law enforcement, refuse disposal, and/or the structural integrity and traffic capacity of applicable roads.

(2) Comprehensive plan. A planned unit development district is consistent with and achieves one (1) or more goals of the Comprehensive Plan.

(3) Impact on the community. A planned unit development district shall enhance the appearance, character, and economic sustainability of the community.

(4) Minimum land area. A planned unit development district shall be a minimum of ten (10) acres of contiguous land.

(a) Exception(s):

[1] A planned unit development may have a land size of less than ten (10) acres if the designated approval authority makes specific findings of fact to support the conclusion this development is in the public interest because one (1) or more of the following conditions exist:

[a] An unusual physical or topographic feature of importance to the area exists on the site or in the community, which can be conserved and still leave the applicant equivalent use of the land by use of a planned unit development.

[b] The land(s) and/or structure(s) has a historical character of importance to the community that will be protected by use of a planned unit development.

[c] The land(s) and/or structure(s) is adjacent to or across a road from an existing planned unit development, and this new development will contribute to the master plan and public benefits of the existing planned unit development.

[d] Any other condition that is determined by the designated approval authority.

(5) Public benefit. A planned unit development shall provide two (2) or more public benefits to the community that is above and beyond what can be reasonably achieved by the application of the zoning provisions applicable to the underlying zoning district.

(6) Public welfare. A planned unit development district shall not be detrimental to the public welfare.

(7) Unified control. A planned unit development district shall be under single ownership or unified control, where a single entity has the responsibility for the design, construction, and maintenance of this development.

G. Procedure. The procedure to approve or deny a planned unit development shall be the same as amending this Chapter and the Zoning Map. However, the following shall be in addition to that procedure:

(1) Pre-application meeting.

(a) General. Prior to applying for a planned unit development district, the applicant shall apply for and participate in a pre-application meeting with the Code Enforcement Officer, Town Attorney, Town Engineer, and any other Town official (e.g., Highway Superintendent, Town Clerk, etc.) and/or qualified consultants deemed necessary and appropriate by the designated approval authority to discuss the zoning classification of the proposed land(s), applicable laws, procedures to create a planned unit development district, and any other information applicable to this district.

(b) Purpose. The purpose of this meeting shall be to:

[1] Familiarize all parties with each other's intentions with respect to the planned unit development district; and

[2] Familiarize all parties with the procedure to create a planned unit development districts and the standards prescribed herein; and

[3] Discuss application requirements and the involvement of other AHJs in the review of this development; and

[4] Discuss issues to consider in planning this development.

(c) Non-binding. Any statements made by any person during this pre-application meeting shall not be legally binding.

(2) Community meeting.

(a) General. The applicant shall be responsible for hosting a community meeting for owners of lots of record within a minimum five hundred (500) feet radius of the planned unit development district prior to submitting an application. This meeting shall not constitute a public hearing on this district and shall not be administered by Town staff or appointed board members as such. Furthermore, no action may be taken on this district at this meeting, and no comments and/or proposed design(s) shall be considered binding.

(b) Purpose. As stated herein, a planned unit development district is a particular land development process where an applicant can receive zoning flexibility and relief in exchange for creating a significant positive impact on the community as well as a set of public benefits negotiated with the Town and the neighborhood. For that reason, this district creates an extra layer of public input not provided within this Chapter for a permitted or special use. Therefore, it is essential that the applicant host a community meeting to obtain input from adjacent owners and address concern(s) prior to submitting an application.

(3) Application. An applicant applying for a planned unit development district shall submit a complete application for an amendment to this Chapter and the Zoning Map, which is prescribed by this Chapter. In addition to the application requirements for such amendment, all the following shall be submitted:

(a) A full EAF.

(b) Master plan.

(c) Any other information deemed necessary by the designated approval authority to explain the nature of this district, its potential environmental impacts under SEQRA, and its compliance with the Comprehensive Plan and this Chapter.

(4) Review by Town Attorney and Town Engineer. The procedure and review of a planned unit development district is more complex than conventional zoning techniques. For that reason, an application for a planned unit development district shall be reviewed by the Town Attorney and Town Engineer prior to being transmitted to the designated approval authority, County Planning Board and/or any other AHJ. The Town Attorney and Town Engineer shall inform the designated approval authority of his/her/their recommendations and if the application is complete, which shall be in writing. The designated approval authority shall not initiate its review of the application until the Town Attorney and Town Engineer deems the application is complete.

(5) County Planning Board. A planned unit development district shall by referred to the County Planning Board for its review and recommendations in accordance with the requirements of § 239-l and § 239-m of the General Municipal Law of NYS, as currently in effect and as hereafter amended from time to time, regardless of any agreement between this county board and the Town stating otherwise.

(6) SEQRA. A planned unit development district shall be classified as a Type I action pursuant to § 617.4 of SEQRA and this Chapter. It shall also receive a coordinated review.

(a) The Town Engineer shall assist the designated approval authority as it pertains compliance with the applicable procedures and requirements prescribed by SEQRA.

(7) Public hearing. A public hearing is required by and shall be conducted in compliance with § 130 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

(a) A notice of a public hearing shall be provided (e.g., email, regular mail, etc.) to the owner of a lot of record located within five hundred (500) feet of the planned unit development district.

(b) A notice of public hearing shall be provided to an adjacent municipality located within five hundred (500) feet of a planned unit development district pursuant to § 239-nn of the General Municipal Law of NYS, as currently in effect and as hereafter amended from time to time.

(c) The applicant shall be responsible for providing a notice of public hearing to the parties prescribed herein.

[1] The Town Attorney shall review and approve the notice of public hearing to ensure compliance with any applicable law.

[2] The Town shall provide the mailing address of the owners within the minimum radius, which shall be taken from the records of the Assessor, and any other party required to receive this notice.

[3] The applicant shall submit an affidavit approved by the Town Attorney that the notice prescribed herein was mailed to all required parties as required by law.

H. Standards.

(1) Architecture. A planned unit development shall incorporate a consistent architectural theme, which is of high-quality and distinctive using high-quality design, materials, and signage. Generic corporate architecture and big box designs are strongly discouraged. Uses shall also be designed according to the limitations of the site rather than the removal of such limitations. Specific design details such as but not limited to architectural details, exterior colors and building materials, and varying building styles shall be addressed and clearly illustrated in the master plan.

Figure 350-88: Example of a consistent architectural theme with a Planned Residential Development

(2) Bulk regulations.

(a) Building coverage.

[1] Planned commercial / industrial development. The maximum building coverage shall not exceed seventy percent (70%).

[2] Planned residential development. The maximum building coverage shall not exceed fifty percent (50%).

[3] Planned resort development. The maximum building coverage shall not exceed seventy percent (70%).

(b) Building height.

[1] Planned commercial / industrial development. The maximum building height shall not exceed sixty (60) feet and four (4) stories above grade plane.

[2] Planned residential development. The maximum building height shall not exceed thirty-five (35) feet and three (3) stories above grade plane.

[3] Planned resort development. The maximum building height shall not exceed sixty (60) feet and four (4) stories above grade plane.

(c) Density.

[1] Planned commercial / industrial development. The maximum density shall be determined by the designated approval authority based on the recommendations of the Town Engineer. However, the density of this development shall not exceed the capacity of any onsite wastewater treatment system, roads, sanitary sewage system, private well, public service, public water system, and/or any other utility serving this development.

[2] Planned residential development.

[a] Development served by an onsite wastewater treatment system. The maximum density shall be one (1) dwelling unit per two (2) acres for planned residential development served by an onsite wastewater treatment system(s).

[b] Development served by a private well and public sewer system. The maximum density shall be one (1) dwelling unit per acre for a planned residential development served by a private well and public sewer system.

[c] Development served by public sewer and water systems. The maximum density shall be four (4) dwelling units per acre if a planned residential development district is located within a public sewer and water district, or is served by public sewer and water by other approved means (e.g., out of service customer to a public sewer and water district).

[d] Density bonuses. Density bonuses may be awarded by the designated approval authority if a community building and an additional two (2) or more features are provided:

(i) Amenities such as but not limited to childcare services, dining facilities, laundry services, and recreational facilities that shall be considered beneficial to the planned residential development. Such amenities shall not be required to be made available to the public.

(ii) Automatic sprinkler system within each dwelling unit that is compliant with the Uniform Code.

(iii) Fire alarm system monitored by an approved supervising station within each dwelling unit that is compliant with the Uniform Code.

(iv) Military or veteran housing, which shall be a minimum of five (5) dwelling units.

(v) Transfer of development rights approved by the Town Board.

The amount of density bonuses will be determined by the designated approval authority based on the recommendation of the Town Engineer. However, a planned residential development shall not exceed seven (7) dwelling units per acre.

[e] Capacity of infrastructure. The density of this development shall not exceed the capacity of any type of infrastructure serving this development as determined by the Town Engineer.

[3] Planned resort development. The maximum density shall be determined by the designated approval authority based on the recommendations of the Town Engineer. However, the density of this development shall not exceed the capacity of any onsite wastewater treatment system, roads,

sanitary sewage system, private well, public service, public water system, and/or any other utility serving this development.

(d) Yards. The minimum yards shall be determined by the designated approval authority based on the recommendations of the Town Engineer. However, the front yard shall be a minimum of twenty (20) feet.

(3) Community building.

(a) Planned residential development. A community building is strongly preferred but not required in a planned residential development.

(4) General standards. A planned unit development district shall comply with the general standards prescribed in this Chapter.

(a) Exemption(s):

[1] Compliance with the general standard for outdoor lighting prescribed by this Chapter shall be required for a planned unit development district regardless of the use(s) contained within this development.

[2] Compliance with the general standard for garbage and/or rubbish containers prescribed by this Chapter shall be required for a planned unit development regardless of the use(s) contained within this development.

(5) Landscaping.

(a) General. Landscaping within a planned unit development district shall be of high-quality design, materials and plants.

(b) Buffer. The landscaping plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. This buffer shall provide a high degree of privacy between this district and contiguous lots during all seasons. Furthermore, no recreational activities, parking and/or structure shall be allowed within this buffer.

(6) Location. The zoning district(s) that are allowed to be amended to create a planned unit development district shall comply with the following:

(a) Planned commercial / industrial development.

[1] Commercial zoning district.

[2] Light Industrial zoning district.

(b) Planned residential development.

[1] All zoning districts except the Hamlet, Lakefront Residential and Lakefront Recreational zoning districts.

(c) Planned resort development.

[1] Lakefront Commercial zoning district.

(7) Open space.

(a) Open space shall be provided in an amount equal to or greater than ten percent (10%) of the total area of a lot(s) of record that is incorporated within a planned unit development district. These spaces may be

provided in the form of parks, plazas, arcades, commons, trails, sport courts or other athletic and recreational areas, outdoor areas for the display of sculptural elements, etc.

[1] Exception(s):

[a] Land reservations for a community building may be considered as part of the required open space.

(b) Open space that is owned and maintained privately shall be covenanted to the satisfaction of the Town Attorney to ensure that such space shall not be utilized for future building sites, and to ensure that said space shall be maintained in compliance with the approved master plan.

(8) Parking spaces.

(a) Planned commercial / industrial development and planned resort development. The minimum number of parking spaces shall be determined by a parking demand study prepared by and sealed/signed by a professional traffic operations engineer (PTOE). This study shall be prepared in accordance with established professional practices such as but not limited to Parking Generation, current edition, by the ITE.

(b) Planned residential development.

[1] The minimum number of parking spaces shall comply with the parking and loading spaces standards prescribed by the general standards of this Chapter.

[2] Additional parking spaces for guests are strongly recommended to be contained within a planned residential development.

(c) Public roads. No parking spaces shall be located within the right-of-way of any public road (a.k.a., highway) unless approved otherwise by the AHJ (e.g., NYSDOT, Highway Superintendent, etc.). Written approval by the AHJ shall be submitted as part of the application.

(9) Private garage.

(a) Planned residential development.

[1] Each dwelling unit located within a planned residential development shall have an attached and enclosed private garage that is designed to accommodate a minimum of two (2) parking spaces.

Figure 350-89: Example of a floor plan with attached and enclosed private garage at a Planned Residential Development

(10) Roads.

(a) General. Roads located within a planned unit development are strongly recommended to be private roads, which are defined and regulated by the Highways and Private Roads Law of the Town, as currently in effect and as hereafter amended from time to time.

(b) Public road(s). Any road within a planned unit development that is proposed to be dedicated to a public entity (e.g., County, NYS, or Town) shall obtain written approval(s) of the willingness of such entity to accept this dedication subject to satisfaction of any condition(s) specified from the public entity. This written approval of willingness shall be submitted as part of the application.

(c) Lighting. Lighting for a road shall not be required in order to maintain the rural character of the Town unless mandated otherwise by an AHJ.

(d) Speed limit.

[1] Private road. The maximum speed limit for a private road is thirty (30) miles per hour unless determined otherwise by an AHJ.

[2] Public road. The maximum speed limit for a public road shall be determined by the NYSDOT.

(e) Traffic control devices. Traffic control devices required by the MUTCD and its associated NYS supplement, as currently in effect and as hereafter amended from time to time, shall be purchased and installed by the owner. The owner shall obtain approval from the AHJ of such devices prior to installation.

(11) Signage.

(a) General. A consistent signage theme shall be provided within a planned unit development. Freestanding signs shall be monument style and of a size and height that is complimentary to the architecture of the development.

[1] Exception(s):

[a] Traffic control devices required by the MUTCD and its associated NYS supplement, as currently in effect and as hereafter amended from time to time.

Figure 350-90: Example of a freestanding sign at a Planned Residential Development

(12) Stormwater pond.

(a) A stormwater pond located within a planned unit development district is strongly recommended to have a permanent pool that is surrounded by landscaping and contains a fountain.

Figure 350-91: Examples of a stormwater retention basin with fountain.

(13) Use(s). The use(s) allowed within a planned unit development shall comply with the following:

(a) Planned commercial / industrial development.

[1] Agricultural business.

[2] Agricultural fairground.

[3] Agricultural service use.

[4] Agricultural tourism.

[5] Airport, county.

[6] Airport-related use.

[7] Child day care establishment.

[8] Commercial use, light or heavy.

[9] Dwelling, single unit.

[10] Dwelling, two unit.

[11] Dwelling, multiple unit.

[12] Farm operation.

[13] Hotel.

[14] Industrial use, light or heavy.

[15] Marina.

[16] Motel.

[17] Outdoor storage.

[18] Recreational activities.

[19] Recreational facility.

[20] Storage facility, self-service.

[21] Vehicle oriented commercial use.

[22] Veterinary facility.

[23] Accessory uses subordinate, incidental to, and customarily found in connection with the uses permitted within this development as determined by the designated approval authority.

(b) Planned residential development.

[1] Child day-care center.

[2] Dwelling, single unit.

[3] Dwelling, two unit.

[4] Light commercial uses that are determined to be compatible with residential uses by the designated approval authority (e.g., laundromat, pharmacy, professional office, etc.).

[5] Recreational activities and facilities that are determined to be compatible with residential uses by the designated approval authority (e.g., playground, small-scale fitness center, trail, etc.).

[6] School-age child care program.

[7] Small day-care center.

[8] Townhouse.

[9] Accessory uses subordinate, incidental to, and customarily found in connection with the uses permitted within this development as determined by the designated approval authority.

(c) Planned resort development.

[1] Child day-care establishment.

[2] Commercial use, light.

[3] Dwelling, single unit.

[4] Dwelling, two unit.

[5] Dwelling, multiple unit.

[6] Hotel.

[7] Marina.

[8] Motel.

[9] Recreational activities.

[10] Recreational facility.

[11] Townhouse.

[12] Accessory uses subordinate, incidental to, and customarily found in connection with the uses permitted within this development as determined by the designated approval authority.

§ 350-88A. Pond, agricultural or recreational.

A. Intent. The intent of this section is to:

(1) Ensure that an owner has assistance in the design, placement and materials used to construct an agricultural or recreational pond; and

(2) Protect groundwater resources and waterbodies within this town; and

(3) Protect the health, safety and general welfare of the public.

B. Specific definitions. The following terms are specific to this section:

POND – Any man-made water impoundment that has a depth equal to or greater than 6 feet and a surface area equal to or greater than 10,890 square feet (1/4 of an acre).

POND, AGRICULTURAL – Any pond used primarily for agricultural purposes for year-round use. This term is also known as a farm pond or irrigation pond.

POND, RECREATIONAL – Any pond, typically designed to resemble a natural pond, that is used for recreation, often including activities like fishing, paddling, relaxation and/or swimming. Aesthetic ponds, also known as garden ponds or ornamental ponds, shall be included in this definition.

C. Design. Upon receipt of an application for an agricultural or recreational pond, the designated approval authority shall transmit such application and its site plan to YCSWCD for its recommendations. The owner shall comply with any recommendation of YCSWCD.

Exemption(s):

(1) The design of an agricultural or recreational pond that is prepared and sealed by a registered design professional shall not be required to be transmitted to YCSWCD. A copy of this design shall be submitted to the designated approval authority.

(2) A stormwater control facility / measure designed and approved as part of a SPDES general permit for stormwater discharges from construction activities, which is administered and enforced by the NYSDEC. A copy of this permit shall be submitted to the designated approval authority.

(3) Any water impoundment that has been designed and approved as part of a NYSDEC issued permit such as but not limited to a Dam Safety Permit and a Protection of Waters Permit to Work on a Dam or Other Impoundment Structure. A copy of this permit shall be submitted to the designated approval authority.

D. Dimensional standards and separation distances.

(1) Depth. An agricultural or recreational pond shall not exceed 15 feet in depth.

(2) Separation distances.

(a) An agricultural or recreational pond shall have a minimum separation distance of 25 feet from all lot lines.

(b) An agricultural or recreational pond shall comply with the separation distances to a private well as required by the regulations administered by the NYSDOH or NYSDEC.

(c) An agricultural or recreational pond shall comply with the separation distances to an onsite wastewater treatment system (a.k.a., septic system) as required by the regulations administered by the NYSDEC or NYSDOH.

(3) Size.

(a) An agricultural pond shall not exceed 10 percent of the lot area of the applicable lot unless permitted otherwise by the regulations administered by NYSDAM.

(b) A recreational pond shall not exceed 10 percent of the lot area of the applicable lot.

(4) Volume. An agricultural or recreational pond shall not exceed 3 million gallons.

E. Use classification.

(1) An agricultural pond shall be classified as a customarily accessory use to a farm operation or other agricultural related use as determined by the Agricultural Advisory Committee of this town.

(2) A recreational pond shall be classified as a customarily accessory use to any principal use.

§ 350-89. Private club.

A. Access. Access to a private club shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

§ 350-90. Private small animal operation.

A private small animal operation shall be permitted as an accessory use at all zoning districts except for the Lakefront Commercial (LCOM), Lakefront Recreational (LREC) and Lakefront Residential (LRES) Zoning Districts, in which such use shall be prohibited. However, a private small animal operation shall comply with the following requirements if such operation is located within the Hamlet (HA) Zoning District:

A. Breeding. Breeding of small animals shall not be permitted.

B. Commercial use. A private small animal operation shall not be used as a commercial use (e.g., selling of eggs).

C. Enclosure. Small animals shall be kept in a structure or in a fenced enclosure at all times.

D. Minimum lot area. A private small animal operation shall be located on a lot of record that has a minimum lot area of two acres.

E. Number of small animals. A lot of record shall have a maximum limit of five small animals.

F. Roosters prohibited. Roosters are prohibited.

G. Setback. A structure used to shelter small animals shall have a setback of 25 feet from a rear and side lot line. Such shelter shall not be located in the front yard.

§ 350-91. Private stable.

A private stable shall be permitted as an accessory use at all zoning districts except for the Lakefront Commercial (LCOM), Lakefront Recreational (LREC) and Lakefront Residential (LRES) Zoning Districts, in which such use shall be prohibited. However, a private stable shall comply with the following requirements if such stable is located within the Hamlet (HA) Zoning District:

A. Commercial use. A private stable shall not be used as a commercial use (e.g., commercial horse boarding operation and/or commercial equine operation, which such uses are defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time).

B. Enclosure. A horse or horses shall be kept in a structure or in a fenced enclosure at all times.

C. Manure. Manure that has not been composted or spread shall not be stored and remain on a lot of record for a period in excess of one year.

D. Minimum lot area. A minimum of one acre per horse is required.

E. Number of horses. A private stable shall have a maximum limit of five horses per lot of record.

F. Setback. A structure used to shelter a horse or horses shall have a setback of 25 feet from a rear and side lot line.

§ 350-92. Recreational cabin.

A. Compliance with the Sanitary Code. A recreational cabin shall comply with Part 7, specifically Subpart 7-1, of the Sanitary Code of NYS, as currently in effect and as hereafter amended from time to time, if it is applicable. Where, in any specific case, conflicts occur between provisions of this chapter and such state law, the more restrictive requirement shall govern.

B. Area. A recreational cabin shall have a gross floor area equal to or greater than 500 square feet.

C. Occupancy. A recreational cabin shall not be used as a dwelling unit and shall only be occupied occasionally for recreational purposes.

D. Utilities. A recreational cabin is not required to be connected to public utilities nor be required to have pressurized or indoor plumbing and an on-site wastewater treatment system.

§ 350-92.1. Recreational facilities, structures and/or uses.

A. Access. Access to a recreational use shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Design.

(1) The design of all recreational facilities, structures and/or uses, whether active or passive, including site layout, building orientation and accessory structures and/or uses, shall be directed inward with minimal visibility to public rights-of-way and contiguous lots of record.

(2) The design of all recreational facilities, structures and/or uses, whether active or passive, shall comply with the ADA standards for accessible design ("ADA standards"), as currently in effect and as hereafter amended from time to time, and/or the Uniform Code.

(3) The design of all recreational facilities, structures and/or uses, whether active or passive, shall comply with the applicable standards and guidelines developed by the National Park Service and/or the NYS Office of Parks, Recreation and Historic Preservation.

D. Setbacks.

(1) A recreational facility shall be located not less than 50 feet from a contiguous lot of record containing a residential use, except where greater distances are otherwise required by law or an AHJ.

(2) Recreational structures and/or uses, whether active or passive, shall be located not less than 50 feet from a contiguous lot of record containing a residential use, except where greater distances are otherwise required by law or an AHJ.

§ 350-93. Residential care/assisted living facility.

A. Access. Access to a residential care/assisted living facility shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Compliance with state law. A residential care/assisted living facility shall comply with the applicable state law governing the type of care provided (e.g., Article 28 of the Public Health Law of NYS, as currently in effect and as hereafter amended from time to time).

§ 350-94. Schools.

A. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

B. Elementary and secondary school. Elementary and/or secondary schools shall be regulated by the applicable provisions of 8 NYCRR, as currently in effect and as hereafter amended from time to time, and the designated approval authority is the Commissioner of the NYSED.

C. Higher education school.

(1) Access. Access to a higher education school shall only be taken from a public road.

(2) Accessory uses. Accessory uses associated with a higher education school, which are but shall not limited to dormitories, fraternities, indoor and/or outdoor instructional and/or recreational facilities, and sororities, shall be classified as a customarily accessory use and shall be permitted.

(3) Minimum lot area. A higher education school shall be located on a lot of record that has a minimum lot area of five acres.

(4) NYSED. A higher education school shall comply with any applicable provision of 8 NYCRR, as currently in effect and as hereafter amended from time to time.

D. Parochial or private school.

(1) Access. Access to a parochial or private school shall only be taken from a public road.

(2) Accessory uses. Accessory uses associated with a parochial or private school, which are but shall not limited to dormitories, and indoor and/or outdoor instructional and/or recreational facilities, shall be classified as a customarily accessory use and shall be permitted.

(3) Minimum lot area. A parochial or private school shall be located on a lot of record that has a minimum lot area of two acres.

(4) NYSED. A parochial or private school shall comply with any applicable provision of 8 NYCRR, as currently in effect and as hereafter amended from time to time.

~~§ 350-95. Solar photovoltaic and/or thermal systems.~~

A. Agricultural solar photovoltaic and/or thermal systems. NYSDAM has determined that solar photovoltaic and/or thermal systems used to supply a portion of a farm operation's electrical and/or heating/hot water needs, which shall not exceeding 110% of the farm operation's anticipated demand, to be on-farm equipment. This determination designates such solar photovoltaic and/or thermal systems as a customarily accessory use to a farm operation. For these reasons, this chapter shall not restrict the use of solar photovoltaic and/or thermal systems installed at a farm operation to supply such operation's electrical and/or heating/hot water needs, which shall not exceeding 110% of the farm operation's anticipated demand.

B. Building mounted solar photovoltaic and/or thermal systems.

(1) A building-mounted solar photovoltaic and/or thermal system may be mounted on a principal and/or accessory structure.

(2) A building-mounted solar photovoltaic and/or thermal system on pitched roofs shall be installed parallel to the roof surface on which it is mounted or attached.

(3) A building-mounted solar photovoltaic and/or thermal system on pitched roofs shall not extend higher than the highest point of the roof surface on which it is mounted or attached.

(4) A building-mounted solar photovoltaic and/or thermal system on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

(5) Prior to installation, a report, which shall be prepared and sealed by a registered design professional, shall be submitted to the designated approval authority that documents that the building and/or structure to which a building-mounted solar photovoltaic and/or thermal system is mounted can support the additional imposed loads.

C. Freestanding solar photovoltaic and/or thermal systems. A freestanding solar photovoltaic and/or thermal system is permitted as an accessory structure in all zoning districts but shall comply with the following standards:

(1) The height of such system and any mounts shall not exceed 20 feet when oriented at maximum tilt.

(2) The location of such system and any mounts shall meet the setback/yard requirements for accessory structures at the applicable zoning district.

(3) The total surface area of such system, which may be calculated by factoring in the moutning angle at maximum tilt, shall be considered impervious and calculated in the building coverage of the lot of record on which the system is located. Exemption(s):

(a) The total surface area of such system shall not exceed 10% of the lot area of the subject lot of record or 4,000 square feet, whichever is more restrictive.

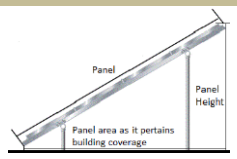


Figure 350-92: Panel area and height

(4) All plumbing and/or power transmission lines from a freestanding solar photovoltaic and/or thermal system to any other structure shall be located underground.

(5) At all zoning districts, a freestanding thermal system shall provide heated liquid, which is used for such purposes as space heating and cooling, domestic hot water, and heating pool water, only for structures located at the subject lot of record.

D. Design.

(1) The design of the solar photovoltaic and/or thermal system shall conform to applicable industry standards as well as the Uniform Code and/or Energy Code.

(2) A solar photovoltaic and/or thermal system shall provide power and/or hot water for the principal use and/or accessory use of a lot of record on which such system is located. However, this provision shall not be interpreted to prohibit the sale of excess power and/or hot water generated from time to time to a public service agency (i.e., interconnected customer-owned solar photovoltaic and/or thermal system).

(3) A solar photovoltaic and/or thermal system shall have antireflective coating(s). Furthermore, a solar photovoltaic and/or thermal system shall be designed and located to avoid concentrated glare or reflection onto structures at a contiguous lot of record. Lastly, a solar photovoltaic and/ or thermal system shall be designed and located to avoid concentrated glare or reflection onto adjacent roads and shall not interfere with traffic or create a safety hazard.

(4) All mechanical equipment associated with and necessary for the operation of the solar photovoltaic and/or thermal system shall comply with the following:

(a) Mechanical equipment shall be screened from any contiguous lot of record containing a residential use. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Fence Law of the Town, as currently in effect and as hereafter amended from time to time,[29] may be used.

(b) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.

(c) Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.

(5) A solar photovoltaic and/or thermal system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar photovoltaic and/or thermal system.

E. Abandonment. If a solar photovoltaic and/or thermal system ceases to perform its originally intended function for more than 12 consecutive months, the owner shall remove the system, including but not limited to any mounts and associated equipment, by no later than 90 days after the end of the twelve- month period.

F. Farm operation and/or prime farmland. Solar photovoltaic and/or thermal systems located on a farm operation and/or prime farmland shall be constructed/designed in accordance with the construction mitigation requirements for agricultural lands as prescribed by NYSDAM.

G. NYS Real Property Tax Law exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

H. Public service agency notification. The owner of a solar photovoltaic and/or thermal system shall provide evidence that the applicable public service agency has approved his/her/their intent to install an interconnected customer-owned solar photovoltaic and/or thermal system. Off-grid solar photovoltaic and/or thermal systems shall be exempt from this requirement.

Figure 350-93: Solar Photovoltaic and Thermal Systems (i.e., Freestanding)

§ 350-85. Solar energy system.

A. Authority. The Town Board enacts this section under the authority granted by the following:

(1) § 2(c)(6) and (10) of Article IX of the Constitution of NYS.

(2) § 4 of Article XIV of the Constitution of NYS.

(3) § 10, Subdivisions 1, 6 and 7 of the NY Statute of Local Governments.

(4) § 10 of the Municipal Home Rule Law of NYS.

(5) §§ 261-263 of the Town Law of NYS.

B. Purpose. This section is adopted to advance and protect the public health, safety, welfare, and quality of life of this town by creating regulations for the installation and use of solar energy generating systems, with the following objectives:

(1) To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of solar energy systems; and

(2) To protect the health, welfare, safety, and quality of life of the general public; and

(3) To ensure compatible land uses in the vicinity of the areas affected by solar energy systems; and

(4) To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and

(5) To create synergy between solar energy system development and the goals prescribed in the comprehensive plan.

C. Applicability.

(1) General. The requirements of this section shall apply to all solar energy systems permitted, installed, or modified in this town after the effective date of this local law, excluding general maintenance and repair. However, solar energy systems constructed or installed prior to the effective date of this section shall not be required to meet the standards stipulated herein. Lastly, modifications to, retrofits, or replacements of a solar energy system, or a portion thereof, that increases the total solar energy generation and/or facility area shall be subject to the standards stipulated herein.

D. Specific definitions. The following terms are specific to the use regulated by this section:

(1) ABANDONMENT – In regard to a solar energy system, this system is considered abandoned if it stops operating constantly for more than a year, the owner of this system has declared bankruptcy, or other actions/reasons justified by law.

(2) BUILDING-INTEGRATED SOLAR ENERGY SYSTEM – A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

Example of Building-Integrated Solar Energy System

(3) COMMISSIONING – A systematic process that provides documented confirmation that a solar energy system functions according to the intended design criteria and complies with applicable code requirements.

(4) DECOMMISSIONING. A systematic process that provides documentation and procedures that allow a solar energy system to be safely de-energized, disassembled, readied for shipment or storage, and removed from the premises in accordance with applicable local, state and federal regulations.

(5) DUAL-USE SOLAR ENERGY SYSTEM – Solar energy system(s) located on agricultural lands where farming activities like crop production or grazing are maintained alongside solar energy equipment and/or panels. This practice, also known as agrivoltaics, allows for simultaneous use of the land for both solar energy generation and agriculture as well as it has been planned and designed with agricultural producers and/or experts. For clarification purposes, for a solar energy system to be considered dual-use, it cannot displace farming activity; farming activity must be maintained throughout the life of the solar facility in a manner that is consistent with commercial agricultural production as appropriate to the capacity of the land when farmed sustainably. Dual-use is different than simple co-location which generally involves traditional ground-mounted solar installations that host non-agricultural plantings with additional environmental benefits. The term "dual-use" refers to a solar installation that: (i) retains or enhances the land's agricultural productivity, both short term and long term; (ii) is built, maintained, and has provisions for decommissioning to protect the land's agricultural resources and utility; and (iii) supports the viability of a farming operation and/or lands in agricultural production.

Example of Dual-Use Solar

(6) ENVIRONMENTAL MONITER – Shall bear the same meaning as “environmental monitor” that is defined in the NYSDAM’s guidelines for solar energy projects.

(7) FACILITY AREA – The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility’s perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility’s perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

(8) FARMING ACTIVITY – Shall bear the same meaning as “farming activity” this is defined in § 334 of the Agriculture and Markets Law of NYS, as currently in effect and amended from time to time.

(9) GLARE – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

(10) GROUND-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

Example of a Ground-Mounted Solar Energy System

(11) HOST COMMUNITY AGREEMENT (HCA) – A legally binding document that outlines the terms and conditions under which a solar energy system will be developed and operated in this town. It establishes the relationship between the solar energy system's owner and the local community, addressing potential concerns and benefits.

(12) IEC 62446 – The international standard for grid connected photovoltaic systems that establishes minimum requirements for system documentation, commissioning tests, and inspections for grid-connected PV systems.

(13) KILOWATT (kW) – A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

(14) MEGAWATT (MW): A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

(15) NAMEPLATE CAPACITY – A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

(16) NON-PARTICIPATING PROPERTY – Any property that is not a participating property.

(17) NON-PARTICIPATING RESIDENCE – Any residence located on non-participating property.

(18) OCCUPIED COMMUNITY BUILDING – Any building in occupancy group A, B, E, I, R, as defined in the Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

(19) ON-FARM SOLAR ENERGY SYSTEM – A solar energy system located on a farm which is a farm operation in a NYS certified agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

Example of an On-Farm Solar Energy System

(20) PARTICIPATING PROPERTY – An ESS host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the ESS owner (or affiliate) regardless of whether any part of an ESS is constructed on the property.

(21) ROOF-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

Example of a Roof-Mounted Solar Energy System

(22) SOLAR ENERGY EQUIPMENT – Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical, photovoltaic and/or thermal equipment associated with the production and storage of electricity and/or heat.

(23) SOLAR ENERGY SYSTEM – The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. A solar energy system is classified as a Tier 1, Tier 2, or Tier 3 solar energy system as follows.

(a) Tier 1 solar energy systems include the following:

(i) Roof-mounted solar energy systems.

(ii) Building-integrated solar energy systems.

(iii) Ground-mounted solar energy systems with a total solar panel surface area of up to 4,000 square feet.

(iv) On-farm solar energy systems.

(b) Tier 2 Solar Energy Systems include the following:

(i) Ground-mounted solar energy systems that are not included under Tier 1 solar energy systems with a facility area of up to 8 acres in size.

(ii) Ground-mounted solar energy systems that are not included under Tier 1 solar energy systems with a facility solar energy generation of 2 megawatts or less.

(iii) Waterbody solar energy systems that are installed on private waterbodies.

(c) Tier 3 solar energy systems are solar energy systems which are not included under Tier 1 or Tier 2 solar energy systems.

(14) SOLAR PANEL – A photovoltaic or thermal device capable of collecting and converting solar energy into electricity or heat.

(15) WATERBODY, PRIVATE - A waterbody such as but not limited to a lake, pond, or stream that is not navigable and whose bottom is entirely on privately owned land

(16) WATERBODY SOLAR ENERGY SYSTEM – A solar energy system, also known as a floating solar plant or floating photovoltaic (FPV) system, involves placing solar panels on floating platforms on waterbodies like reservoirs, lakes, or ponds. These systems generate electricity by harnessing sunlight, similar to traditional land-based solar farms, but with the added benefits of conserving water and potentially increasing energy efficiency due to the cooling effect of the water.

Example of a Waterbody Solar Energy System

I. Use classification and zoning districts.

(1) Tier 1 solar energy system. This solar energy system shall be classified as a permitted accessory use in all zoning districts.

(2) Tier 2 solar energy system. This solar energy system shall be classified as a special use in the following zoning districts:

(a) Agriculture.

(b) Agricultural Residential.

(c) Commercial.

(d) Light Industrial.

(3) Tier 3 solar energy system. This solar energy system shall be classified as a special use in the Light Industrial zoning district.

Exception(s):

(a) A Tier 3 dual-use solar energy system shall be classified as a special use in the Agriculture and Light Industrial zoning districts.

J. Special expert. When required by the Code Enforcement Officer, the owner shall be responsible for retaining and furnishing the services of a qualified person, who will act as a special expert and be subject to approval by this officer.

(1) Qualifications. The qualifications for a special expert are prescribed in the Fire Code.

K. Standards applicable to all solar energy systems. The following are in addition or a substitution to the bulk regulations and general standards prescribed in this chapter:

(1) Abandonment. Upon abandonment, the owner shall initiate and comply with the decommissioning plan, including but not limited to the removal of a solar energy system and restoration of the site. If the owner fails to comply with decommissioning upon any abandonment, this town may, at its discretion, utilize the decommissioning fund for the deconstruction of the facility area and restoration of the site in accordance with the decommissioning plan. Lastly, for solar energy systems that do not require a decommissioning plan, the following are applicable:

(a) Incurred costs. The failure of the owner to pay any cost incurred by this town shall be assessed against the lot of record as prescribed in this chapter.

(b) Public nuisance. An abandoned system shall be deemed a public nuisance and shall be abated as such by the owner pursuant to law.

(c) Removal requirements. Owners are responsible for removing all equipment, foundations, conduits, and associated structures in an approved and workmanlike manner.

(d) Site restoration: The land shall be restored to a condition comparable to its pre-development state in an approved and workmanlike manner.

(e) Unlawful. An abandoned system is unlawful and is a violation of this chapter.

(2) Bulk regulations.

(a) Building coverage. A ground-mounted solar energy system shall be included in the calculation of building coverage at a lot of record. The total surface area of such system, which may be calculated by factoring in the mounting angle at maximum tilt, shall be considered impervious and calculated in the building coverage of a lot of record on which the system is located.

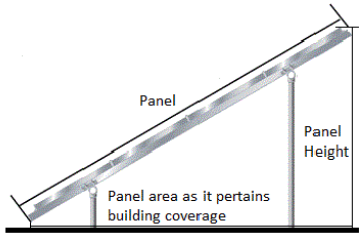
(b) Building height and yards.

(i) Accessory structure. A solar energy system attached to or integrated into the building envelope of an accessory structure shall comply with the building height and yard requirements for an accessory structure in the applicable zoning district.

(ii) Ground-mounted solar energy system. A ground-mounted solar energy system and any of its appurtenances shall not exceed 20 feet when oriented at maximum tilt. Furthermore, a ground-mounted solar energy system shall comply with the yard requirements for a principal building in the applicable zoning district.

(iii) Principal building. A solar energy system attached to or integrated into the building envelope of a principal building shall comply with the building height and yard requirements for a principal building in the applicable zoning district.

(iv) Waterbody solar energy system. A waterbody solar energy system shall comply with the building height and yard requirements for an accessory structure in the applicable zoning district.



Building Coverage and Height for a Ground-Mounted Solar Energy System

(3) Energy storage systems. If energy storage systems are included as part of a solar energy system, they shall meet the standards contained in this chapter for energy storage systems.

(4) FAA. Any solar energy system installed within a 5 nautical mile radius of an airport and has a facility area over 0.5 acre in size may have a potential adverse impact on aviation safety. The Federal Aviation Administration (FAA) requires notification if such a solar energy system is within this radius, as glare and glint from solar panels can pose a hazard to pilots and air traffic controllers. Specifically, the FAA wants to ensure that there's no potential for ocular impact to pilots or air traffic control facilities due to glare from solar panels.

(5) Glare. A solar energy system shall have antireflective coating(s). Furthermore, a solar energy system shall be designed and located to avoid concentrated glare or reflection onto structures at a contiguous lot of record. Lastly, a solar energy system shall be designed and located to avoid concentrated glare or reflection onto adjacent roads and shall not interfere with traffic or create a safety hazard.

(6) Grid-connected solar energy system. A solar energy system that will be connected to the utility grid shall provide documentation from the applicable utility company acknowledging this system is permitted to be connected to their utility grid.

(7) Maintenance and operation. A solar energy system shall be maintained and operated in accordance with industry and manufacturers' standards.

(8) Noise. The hourly mean noise generated from a solar energy system as well as its components and associated ancillary equipment shall not exceed a noise level of 50 dBA as measured at the outside wall of any non-participating residence and occupied community building as well as 55 dBA to a contiguous lot line of a non-participating property. An applicant may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations to demonstrate compliance with this standard.

(9) Outdoor lighting.

(a) Dark sky compliant outdoor lighting is required so long as it does not conflict with NFPA 70.

(10) Signage.

(a) General. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system.

(b) Electrical safety signs. Signs shall post signs in compliance with NFPA 70 / 70E or any applicable successor code in place at the time of application for approval.

(c) Other signs. Signs shall be provided that contain information on the system type and technology, special hazards, fire suppression system and 24-hour emergency contact information, including reach-back phone number.

(11) Site access. Site access (e.g., driveway, fire apparatus access road, etc.) for emergency response agencies shall be installed and maintained to/from a solar energy system as prescribed in the Uniform Code. Furthermore, such access shall be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries, and in its non-agricultural portions of a lot that contains soils classified as prime farmland, prime farmland if drained, and soils of statewide importance.

(12) Solar energy equipment. All solar energy equipment associated with and necessary for the operation of the solar energy system shall comply with the following:

(a) Solar energy equipment shall be screened from any contiguous lot of record containing a residential use. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provide a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Fence Law of the Town, as currently in effect and as hereafter amended from time to time, may be used.

(b) Solar energy equipment shall not be located within the minimum front yard setback of the underlying zoning district.

(c) Solar energy equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.

(13) Uniform Code. A solar energy system shall comply with any applicable requirement prescribed in the Uniform Code.

(14) Utilities. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, except for the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.

L. Standards applicable to building-integrated and/or roof-mounted solar energy systems.

(1) A building-integrated and/or roof-mounted solar energy system may be mounted on a principal building and/or accessory structure. A registered design professional shall verify that the structure can support the structural loads created by this system.

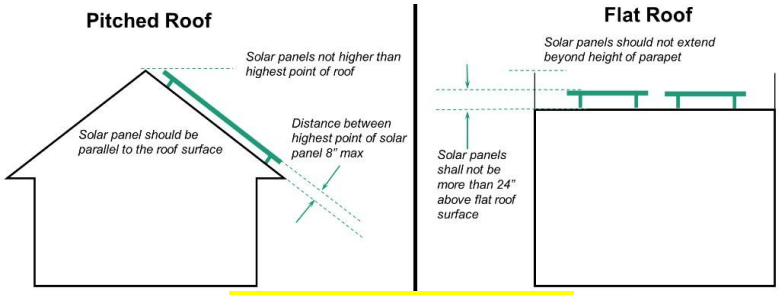
(2) A roof-mounted solar energy system on pitched roofs shall be installed parallel to the roof surface on which it is mounted or attached.

(3) A roof-mounted solar energy system on pitched roofs shall not extend higher than the highest point of the roof surface on which it is mounted or attached.

(4) A roof-mounted solar energy system on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system unless required otherwise by the Uniform Code.

(5) A roof mounted solar energy system on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof.

(6) Prior to installation, a report, which shall be prepared and sealed by a registered design professional, shall be submitted to the Code Enforcement Officer that documents that the building and/or structure to which a building-integrated and/or roof-mounted solar energy system is mounted can support the additional imposed loads.



Roof-Mounted Solar Energy System

M. Standards applicable to dual-use and ground-mounted solar energy systems.

(1) Environmentally sensitive areas. Ground-mounted solar energy systems installed in environmentally sensitive areas such as but not limited to floodplains, steep slopes and wetlands shall be designed and inspected by a registered design professional.

(2) Foundations.

(a) Agricultural soils. To protect agricultural soils when installing ground-mounted solar panels, the following considerations are essential for the foundation: (1) minimizing soil disturbance; and (2) choosing appropriate foundation types; and (3) and ensuring proper drainage to prevent erosion and flooding. Specifically, options like helical piles (a.k.a., screw foundations) or driven beams can minimize ground penetration, while concrete piers require careful consideration of potential impacts on soil compaction and drainage.

(3) Visibility triangle. Ground-mounted solar energy systems shall be placed to avoid obstructing the visibility triangle of a road.

N. Standards applicable to Tier 2 and Tier 3 solar energy systems.

(1) Commissioning plan. The applicant shall submit a commissioning plan, developed in accordance with the NFPA 70 and/or IEC 62446.

(a) Commissioning report. A report describing the results of the solar energy system's commissioning and including the acceptance testing shall be submitted prior to final approval (e.g., certificate of completion and occupancy).

(2) Community engagement plan. The applicant shall submit a community engagement plan that details the proposed plans and strategies for ensuring adequate public awareness and encouraging program participation. Applicants shall submit this plan prior to the submission of a formal application.

(3) Decommissioning fund. The owner shall continuously maintain a fund or bond payable to this town, in a form approved by the Town Attorney, for the removal of a solar energy system, in an amount to be determined by the special expert and/or Town Engineer based on the decommissioning cost estimates provided in the decommissioning plan. The amount of the bond or security shall be no less than 125% of the decommissioning cost estimates if approved by the special expert and/or Town Engineer. All costs of the financial security shall be borne by the owner.

(a) Default. In the event of default upon performance of any approvals and associated conditions, after proper notice and expiration of any cure periods, the decommissioning fund shall be forfeited to this town, which shall be entitled to maintain an action thereon. The decommissioning fund shall remain in full force and effect until site restoration and facility area deconstruction as set forth in the decommissioning plan is fully completed.

(4) Decommissioning plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with the removal of an ESS. This decommissioning plan must be updated every five years until the site has been completely restored and the facility area deconstructed. This plan shall include the following:

(a) Estimated lifespan of the solar energy system.

(b) Defined conditions upon which decommissioning will be initiated, such as the end of lease, cease of operation of the facility for a certain period of time, or a pre-identified end date.

(c) Identification of the party responsible for decommissioning.

(d) Statement defining how notification will be made with the intent to start the decommissioning process.

(e) Description of any agreement made with the owner regarding decommissioning.

(f) Plans and schedule for updating the decommissioning plan over time.

(g) Decommissioning tasks and timing, including:

(i) Removal of all equipment, structures, fencing, roads, and foundations.

(ii) Restoration of property to condition prior to solar development. Restoration shall include bringing soil and topography of the land to their pre-development composition to ensure permitted use upon restoration. Soil tests shall be required as part of the decommissioning plan both before development and prior to the decommissioning.

1. Drain tile system. When a ground-mounted solar system is decommissioned and the land is intended to return to agricultural use, the drain tile system shall be restored to its pre-

construction condition. This involves removing the infrastructure, addressing any impacts to the drainage system, and repairing or replacing damaged tiles. The goal is to ensure that the land can be used for agricultural production after the solar system is removed.

(iii) The timeframe for completion of decommissioning activities.

(h) Detailed decommissioning cost estimates prepared by a knowledgeable independent party. These estimates shall not include the salvage value of solar equipment and infrastructure.

(i) A description of expected impacts on natural resources.

(j) A listing of any contingencies for removing an intact and operational solar energy system from service, and for removing a solar energy system from service that has been damaged by a fire or other event.

(5) Emergency response training plan. The applicant shall submit a site-specific training plan to be provided for local emergency response agencies to familiarize them with the site, hazards associated with a solar energy system, and procedures outlined in the fire safety, evacuation, and lockdown plan. This plan shall be reviewed by the County Office of Emergency Management and local emergency response agencies.

(6) Environmental monitor. An environmental monitor, which shall be approved by this town, shall be employed to oversee the construction, restoration and follow-up monitoring in agricultural areas in accordance with the NYSDAM's guidelines for solar energy projects.

(7) Erosion and stormwater control. Erosion and sediment control and stormwater management plans prepared to NYSDEC's standards, if applicable, and to such standards as may be established by the Town Engineer and/or YCSWCD.

(a) Ground-mounted solar energy systems. Ground-mounted solar panels encourage sheet runoff and proper erosion and stormwater controls are crucial to avoid significant adverse impacts on the community. For these reasons, a ground-mounted solar energy system shall be designed and constructed with approved erosion and stormwater management facilities to ensure that runoff is controlled, and water quality is protected.

(8) Fire safety, evacuation, and lockdown plan. The applicant shall submit a fire safety, evacuation, and lockdown plan, developed in accordance with the Uniform Code, to be implemented in reporting of emergencies, coordination with emergency response agencies, and the procedures for managing and responding to emergencies. This plan shall be reviewed by the County Office of Emergency Management and local emergency response agencies.

(9) Host community agreement. A host community agreement shall be implemented between the Town Board and the owner of a solar energy system. No approvals shall be granted until this agreement is finalized.

(10) Landscaping and screening plan. The applicant shall submit a landscaping and screening plan to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar equipment shall be minimized as reasonably practical from public roadways and adjacent lots to the extent feasible.

(a) This plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the solar energy system. This plan shall be reviewed by the Town Engineer.

(11) NYSDAM mitigation for agricultural lands. The applicant shall submit a mitigation plan for construction impacts on agricultural lands during the following stages: (1) construction, (2) post-construction restoration, (3) monitoring and remediation, and (4) decommissioning. This plan shall be developed in accordance with

NYSDAM's guidelines such as those used for solar energy projects. In addition, the following requirements shall be included in this plan:

(a) Foundations. Helical piles shall be installed as the foundation for solar energy systems to preserve agricultural land due to their low-impact installation, durability, and minimal soil disturbance.

(b) Topsoil. The stripping of topsoil is prohibited.

(12) Security.

(a) A solar energy system shall have a perimeter fence of at least 7 feet in height with a self-locking gate, which shall be compliant with the Uniform Code, to prevent unauthorized access.

(b) A solar energy system shall install a key box whose manufacturer, model and installed location are approved by the local fire department.

(13) SEQRA. A Tier 2 and/or 3 solar energy system shall be classified as a Type I action pursuant to § 617.4 of SEQRA and this chapter. It shall also receive a coordinated review.

(a) The Town Engineer shall assist the designated approval authority as it pertains compliance with the applicable procedures and requirements prescribed by SEQRA.

(14) Siting considerations.

(a) Agricultural lands. § 4 of Article XIV of the Constitution of NYS, the goal(s) of the comprehensive plan and the County's Agricultural Development and Farmland Enhancement Plan are to preserve, to the maximum extent practicable, agricultural land with prime farmland, prime farmland if drained, and soils of statewide importance. For that reason, no solar energy system shall be permitted on such lands that are located within the Agriculture zoning district.

Exception(s):

(i) Dual-use solar strategies or other planning techniques that offset any loss of agricultural activity and/or lands (e.g., Transfer of development rights as defined and regulated by § 261-a of the Town Law of NYS) that are approved by the designated approval authority. Furthermore, such strategies / planning techniques shall adhere to the NYSDAM's Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands. Moreover, the recommendations of the Agricultural Advisory Committee of this town, Town Attorney, Town Engineer as well as YCSWCD shall be incorporated into the approval of this exception. Lastly, the owner shall submit evidence that these strategies / planning techniques achieve the following goals, if applicable:

1. Collaboration between the owner of a solar energy system, local farmers, and agricultural organizations that benefits all parties.

2. Improvements in soil health and stormwater / water retention.

3. Farmland preservation viability, and intergenerational transfer.

4. Investments in farm infrastructure and equipment.

5. Land use optimization and integrated farm management.

6. Opportunities for research on land management and agronomic practices.

(b) Environmentally sensitive areas. A solar energy system installed in environmentally sensitive areas such as but not limited to floodplains, steep slopes and wetlands shall be designed and inspected by a professional engineer.

(15) Soil maps. For projects within a NYS certified agricultural district, the applicant shall submit a map showing active and prime Farmland, including USDA classifications (e.g., farmland of statewide importance, prime farmland and prime farmland if drained).

(16) Transportation plan. The applicant shall submit a plan describing the routes to be used in delivery of the project's components, equipment and building materials as well as those to be used to provide access to the site during and after construction. Commercial traffic must adhere to operating on commercially designated roads. This plan shall also include any anticipated improvements to existing roads, bridges or other infrastructure as well as measures to restore damaged / disturbed access routes and all other infrastructure following construction. This plan shall be approved by the AHJ(s) for roads delineated as routes.

(17) Visual impact assessment. The applicant shall submit a visual impact assessment of a solar energy system on public roadways and adjacent lots. At a minimum, a line-of-sight profile analysis shall be provided depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant. The NYSDEC's policy DEP-00-2, Assessing and Mitigating Visual Impacts, provides guidance for the evaluation of visual impacts of proposed projects.

(18) Unified control. A solar energy system shall be under single ownership or unified control, where a single entity has the responsibility for the design, construction, maintenance, operation, and decommissioning of this system.

O. Waterbody solar energy system.

(1) Design. The design of an offshore solar energy system shall be designed, inspected and approved by a Professional Engineer.

(2) Standards. An offshore solar energy system shall be designed to be compliant with applicable industry standards.

P. Ownership changes.

(1) If the ownership of a solar energy system changes or the owner of the property changes, the new owner must provide written notification to the Code Enforcement Officer and Town Clerk within 30 calendar days of this change. This notification shall include his/her/their contact information and any changes to the 24-hour emergency contact information.

(2) The new owner shall comply with any agreements, certificates, contracts, documents, financial obligations (e.g., decommissioning fund), permits, plans, and any associated conditions that were approved for the installation, operation, maintenance, and decommissioning of a solar energy system.

Q. NYS Real Property Tax Law exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

R. Variance. A variance from the standards prescribed in this section for a solar energy system determined to be a public utility shall utilize the public utility variance standard established by case law. If this system is not determined to be a public utility, an area variance or use variance, whichever one is applicable, shall be utilized to deny or grant a variance from the standards prescribed in this section.

§ 350-96. Storage facility, self-service.

A. Access. Access to a self-service storage facility shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Permitted storage. The permitted storage at a self-service storage facility shall be restricted to the following:

(1) No activity other than rental of storage units and pick up and deposit of material goods shall be allowed at a facility, except for accessory or incidental uses required in administration and security of the site. The use of storage units for any purpose other than storage shall be prohibited.

(2) All goods and/or other objects stored shall be secured inside storage structures. Outdoor retail sales and/or outdoor storage shall be prohibited.

(3) The storage of flammable liquids including petroleum products, highly combustible or explosive materials, corrosive or hazardous chemicals shall be prohibited.

(4) Servicing or repair of vehicles or any similar equipment shall be prohibited.

Figure 350-94: Self-Service Storage Facility

§ 350-97. Telecommunications facility.

A. Intent. The purpose of this section is to establish predictable and balanced regulations for the siting of telecommunications facilities in order to accommodate the growth of such facilities while protecting the public against any adverse impacts on aesthetic resources and the public safety and welfare. The Town wants to accommodate the need for telecommunications facilities while regulating their location and number, minimizing adverse visual impacts through proper design, siting and screening, avoiding potential physical damage to adjacent properties, and encouraging joint use of telecommunications towers. This section also seeks to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures, in order to further minimize adverse visual effects from telecommunications towers. Lastly, this section is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall it be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

B. Co-location of a telecommunication facility permitted as a right. The co-location of a telecommunications facility shall be permitted as a right in the Town.

C. Specific definitions. The following terms are specific to the use regulated by this section:

CO-LOCATION — The act of siting a telecommunication facility on an existing telecommunication tower or similar structure (e.g., aboveground water storage tower) without the need to construct a new telecommunications tower.

Figure 350-95: Co-Location

HEIGHT — The height of the telecommunications facility shall be measured from the grade plane at the base of the telecommunications tower to the highest point of the tower, including, but not limited to, antennas, transmitters, satellite dishes or any other structures affixed to or otherwise placed on such tower. If the base of the telecommunications tower is not on ground level, the height of the telecommunications facility shall include the grade plane at the foundation of the building or structure to which such tower is attached.

TELECOMMUNICATIONS ANTENNA — A system of electrical conductors that transmit or receive radio frequency waves.

TELECOMMUNICATIONS TOWER — A structure on which one or more antennas will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC-licensed carrier, but excluding 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.

D. Applications. In addition to the application requirements described within this chapter, applications for the installation of a telecommunications facility proposing a new telecommunications tower shall comply with the following application requirements and the more restrictive requirement shall apply in cases of conflict:

(1) Documentation of need.

(a) The applicant shall demonstrate, using technological evidence, that the telecommunications facility must be located in its proposed location in order to satisfy its function pursuant to the applicant's technological requirements.

(b) The applicant shall provide a report inventorying all existing tall structures and/or existing telecommunications towers within a reasonable distance of the proposed site. Such distance shall be determined by the designated approval authority in consultation with the applicant. The report shall outline opportunities for co-location at these existing structures and/or towers as an alternative to a proposed new telecommunications tower. The report shall demonstrate good faith efforts to secure co-location from the owner of each existing tall structure and/or existing telecommunications tower as well as documentation of the physical, technical and/or financial reasons why co-location is not practical in each case. Written requests and responses for co-location shall be provided.

(2) Site plan. Provide a scaled site plan(s) prepared and sealed by a registered design profession that illustrates the following:

(a) Location and size of the proposed telecommunications tower, support structures, accessory structures, roads, parking, fences, signs, and landscaped areas.

(b) Setback dimensions to all contiguous lot lines, buildings and/or structures.

(c) Existing topography, with contour intervals of not more than 10 feet, related to the United States Geological Survey datum.

(d) The location of bridges, flood hazard areas, roads, steep slopes, waterbodies/watercourses, wetlands, wooded areas and other geological features within the site.

(3) County airport coordination. Provide a copy of written notice to the county airport and any comments received from such airport.

(4) Decommissioning plan. Provide a decommissioning plan outlining the anticipated means and cost of removing the telecommunications facility, including all accessory facilities and structures, at the end of their serviceable life or at facility abandonment.

(5) Emergency response plan. Provide an emergency response plan that is approved by the fire department having jurisdiction and the County Office of Emergency Management.

(6) FAA. FAA approval for telecommunications facilities exceeding 200 feet in height shall be provided. Otherwise, provide documentation that telecommunications facilities less than 200 feet in height shall meet the requirements of 14 CFR Part 77.13(a), as amended.

(7) FCC.

(a) Provide documentation that the telecommunications facility is licensed by the FCC.

(b) Provide documentation of FCC approval for the proposed telecommunications tower.

(8) Fire apparatus access road. Provide construction documents that are prepared and sealed by a professional engineer that a fire apparatus access road shall be constructed from a public road to the telecommunications facility. Such fire apparatus access road shall comply with the applicable provisions of the Uniform Code.

(9) Intermunicipal notification. In order to keep any neighboring municipalities informed and to facilitate co-location of telecommunications facilities in such municipalities, the applicant shall provide written documentation that he/she/they have notified the legislative bodies of each municipality that borders the Town, the County Planning Board, the County Board of Legislatures, the County Office of Emergency Management and the County Office of the Sheriff. Such notification shall include the exact location of the proposed new telecommunications tower and a general description of the project, including but not limited to the height of such tower and its capacity for future shared use.

(10) Landscaping plan. Provide a landscaping plan prepared and sealed by a registered design professional showing the current vegetation, describing the area to be cleared, listing the specimens proposed to be added and detailing regrading and restoration measures to be taken after construction according to NYSDAM and NYSDEC guidelines. The plan should also include details regarding how erosion and sediment control will be dealt with.

(11) Letter of credit/security. Provide a letter of credit or other form of security acceptable to the Town Attorney as to the form and manner of execution in an amount sufficient for the faithful performance of the terms and conditions of this section; the conditions of the permit or approval issued hereunder for the observation of all Town laws to cover the maintenance of a telecommunications facility during its lifetime and provide for its removal. The amount required shall be at the applicant's expense as determined by the Town Engineer. In the event of default upon the performance of any such conditions, the letter of credit or security shall be forfeited to the Town which shall be entitled an action thereon. The letter of credit or security shall remain in full force and effect until the remove of the telecommunications facility and site restoration.

(12) Professional studies on:

(a) Visual impact. This professional study shall include a computerized photographic simulation showing the site fully developed and demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed site from at least five locations accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility's components and any visual screening incorporated into the project that is intended to lessen visual prominence. Lastly, the study shall comply with NYSDEC's program policy titled "Assessing and Mitigating Visual Impacts."

(b) Geotechnical impact. This professional study shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.

(c) Engineer's report. This report shall be prepared and sealed by a registered design professional that verifies that the telecommunications tower conforms to acceptable industry standards and can withstand the loading requirements (e.g., wind.) for structures as established by the Uniform Code.

(d) Fiscal and economic impact. This professional study shall include a property value analysis prepared by an appraiser licensed in NYS in accordance with industry standards, regarding the potential impact on the value of lots of record adjoining the project site.

(13) Telecommunications tower.

(a) Provide the manufacturer's construction drawings and specifications for the telecommunications tower.

(b) Provide a letter of intent committing the owner of any proposed new telecommunications tower and his/her/their successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Such letter shall state that the owner will:

[1] Respond within 90 days to a request for information from a potential shared use applicant; and

[2] Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers; and

[3] Allow shared use of the new telecommunications tower if another telecommunications provider agrees, in writing, to pay reasonable charges. Such charges may include but are not limited to a prorated share of the cost of the site selection, site design, construction and maintenance financing, return on equity and depreciation, and all costs of adapting the telecommunication tower and its associated equipment to accommodate a shared user without causing electromagnetic interference.

E. Standards.

(1) Abandonment and removal. At the time of submission of the application for a telecommunication facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 12 consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

(2) Access and parking spaces. A fire apparatus access road and required parking spaces will be provided to assure adequate emergency and service access.

(3) Co-location. The shared use of existing telecommunications towers or other structures shall be preferred to the construction of new towers. Any application proposing to construct a new telecommunications tower shall include proof that reasonable efforts have been made to co- locate within an existing telecommunications facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. 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:

(a) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use for those facilities;

(b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;

(c) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; and

(e) The owner of the existing telecommunications facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

(4) Engineering standards.

(a) All telecommunications facilities shall be built, operated and maintained to comply with all applicable industry standards.

(b) All telecommunications facilities shall be designed by a registered design professional to conform to the wind resistance requirements prescribed by the Uniform Code.

(5) Fall zones. Telecommunications facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that, if the facility should fall, it will remain within the lot of record and avoid buildings, structures, roads, utilities and other telecommunications facilities.

(6) Height. Telecommunications facilities shall be designed to be the minimum height needed to meet the service objectives of the applicant and anticipated co-locators.

(7) Lighting. Telecommunications facilities shall not be lighted unless required by the FAA or FCC.

(8) Security.

(a) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than six feet in height.

(b) There shall be no permanent climbing pegs within 15 feet of the ground.

(c) Motion-activated or staff-activated security lighting around the base of a tower or site entrance may be provided if such lighting does not project off the site.

(d) A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public road.

(9) Setbacks. Telecommunications facilities shall comply with all existing setbacks within the affected zoning district. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the designated approval authority to protect life and safety from icefall or debris from tower failure as well as to preserve privacy at contiguous lots of record containing a public or residential use.

(10) Signage. Signs located at telecommunications facilities shall be limited to ownership and contact information, FCC antenna registration number and any other information as required by law. Commercial advertising is strictly prohibited.

(11) Telecommunications tower.

(a) Any new telecommunications tower shall be designed to accommodate future shared use by at least three other telecommunications providers.

(b) Unless required otherwise by the FAA or FCC, a telecommunications tower shall have a finish, whether painted or unpainted, that minimizes its degree of visual impact.

(12) Vegetation and screening.

(a) Existing on-site vegetation shall be preserved to the maximum extent possible. Clear cutting of all trees in a single contiguous area shall be minimized to the extent possible.

(b) The designated approval authority may require appropriate buffering around the fences of the 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.

§ 350-98. Timber and lumber production facility.

Timber and lumber production facilities shall comply with the following standards:

A. Access. Access to a timber and lumber production facility shall only be taken from a public road.

B. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

C. Caretaker quarters. A caretaker quarters may be provided within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

D. Setbacks. The following setbacks are required in addition to those of the zoning district:

(1) Any and all mechanized sawing equipment not located within an enclosed structure shall be located a minimum of 100 feet from any contiguous lot of record.

(2) No storage area for logs, sawn lumber or waste materials shall be located within 100 feet of any watercourse.

§ 350-99. Vehicle orientated commercial use.

A. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

B. Vehicle rental and sales establishment.

(1) Vehicle loading and unloading. Vehicle loading and unloading for a vehicle rental and sales establishment shall occur on the lot of record containing such use, unless approved otherwise by the AHJ.

C. Vehicle repair station.

(1) General. All repairs shall be performed within an enclosed building.

(2) Sales of vehicles. Accessory sales of vehicles are classified as a customarily accessory use, provided they do not:

(a) Constitute more than 25% of the lot size; and

(b) Occupy any required parking spaces.

D. Vehicle service station.

(1) Canopy.

(a) A canopy shall be located between the principal building and the rear or side lot lines. No canopy shall be permitted between the principal building and front lot line.

(b) Canopies shall not exceed 16 feet in height or the height of the principal building, whichever is less.

(c) Canopies shall be architecturally integrated with the principal building and all other accessory structures on the site through the use of the same or compatible materials, colors and roof pitch.

(d) Any lighting fixtures or source lights that are a part of the underside of the canopy shall be recessed into the underside of the canopy so as not to protrude below the canopy ceiling surface.

(2) Abandonment.

(a) If the operation of a vehicle service station is abandoned for any reason for a continuous period in excess of two calendar years, such discontinuance of operation shall be grounds for revocation of any certificate and/or permit issued pursuant to this chapter; and

(b) Upon the revocation of any certificate and/or permit, the owner shall remove all canopies, pumps, pump islands, signs, underground storage tanks and all other equipment and/or instruments related to the vehicle service station in a workmanlike manner.

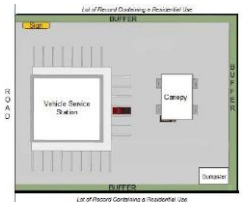


Figure 350-96: Vehicle Service Station

E. Vehicle wash establishment.

(1) General. All washing and machine-drying operations shall be conducted within an enclosed building.

(2) Discharge. A vehicle wash establishment shall discharge into an oil water separator that shall effectively treat wastewater prior to discharging into wastewater treatment systems and/or NYSDEC permitted discharge points.

(3) Setbacks.

(a) The building exit for vehicles that have completed the washing and machine-drying process shall be set back a minimum of 50 feet from the nearest point of any front lot line.

(b) Washing, vacuuming, steam cleaning, waxing, polishing or machine-drying operations, and any building within which such operations are conducted, shall be located a minimum of 50 feet from a contiguous lot of record containing a residential use.

(4) Vacuuming equipment. Vacuuming equipment associated with the vehicle wash establishment shall not be placed adjacent to or face a contiguous lot of record containing a residential use, unless an intervening building exists between such equipment and lot of record.

(5) Wash bays. Wash bays shall not face a contiguous lot of record containing a residential use.

Figure 350-97: Vehicle Wash Establishment

§ 350-100. Veterinary facility.

A. Access. Access to a veterinary facility shall only be taken from a public road.

B. Animal boarding.

(1) All animal boarding facilities that are not completely enclosed, and any outdoor animal pens, stalls, or

runways shall be located within the rear yard.

(2) All animal boarding facilities that are not completely enclosed, and any outdoor animal pens, stalls, or runways shall be a minimum of 100 feet from any contiguous lot of record.

(3) All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be set back a minimum of 10 feet from any contiguous lot of record.

C. Buffer and landscaping. A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.

D. Minimum lot area. A veterinary facility shall be located on a lot of record with a lot area of five acres or more.

E. Veterinarian's residence. A single-unit dwelling may be provided for the veterinarian within the principal building as an accessory dwelling unit, or on the lot of record as a detached single-unit dwelling.

§ 350-101. Wind energy conversion system, agricultural.

A. Intent. As energy costs increase and financial assistance becomes more available, an increasing number of farm operations are considering the installation of wind energy conversion systems to help offset a farm operation's electrical needs. Let the record reflect that NYSDAM has determined that wind energy conversion systems used to supply a portion of a farm operation's electrical needs, which shall not exceeding 110% of the farm operation's anticipated demand, to be on-farm equipment. This determination designates such wind energy conversion system as a customarily accessory use to a farm operation. For these reasons, this section is designed to promote the safe, efficient and effective use of wind energy conversion systems installed at a farm operation to supply a portion of such operation's electrical needs.

B. Specific definitions. The following terms are specific to the use regulated by this section:

NONPARTICIPATING OWNER — Any owner of a lot of record that has not entered into any agreement with a wind energy developer to allow for a wind energy conversion system on or near their lot of record.

OVERSPEED CONTROL — A mechanism used to limit the speed of blade rotation to below the design limits of the wind energy conversion system.

PARTICIPATING OWNER — Any owner of a lot of record that has entered into an agreement with a wind energy developer to allow a wind energy conversion system on or near their property. For clarification purposes, a wind energy developer can also be an owner of a lot of record who has independently installed a wind energy conversion system at his/her/their such lot.

SETBACK — The distance measured from the closest extension of a rotor blade of a wind energy conversion system to an adjacent building, lot line, structure and/or use. For the purpose of this section, measurement shall be made in a straight line without regard to topography. Presence of a town, village or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the setback requirements of this section.

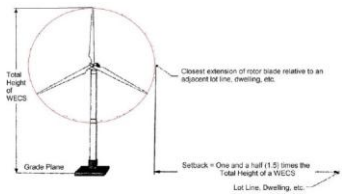


Figure 350-98: Wind Energy Conversion System and Setbacks

SITE — The lot(s) of record where the wind energy conversion system is to be placed, including related tower and transmission equipment. The site may be publicly or privately owned by an individual or group of individuals controlling single or adjacent lots of record. Where multiple lots of record are in joint ownership, the combined lots

shall be considered as one for purposes of applying setback requirements.

TOTAL HEIGHT — Height of wind energy conversion system measured from the grade plane to top of tip of blade in vertical position.

TOWER — Support structure, including guyed, monopole, and lattice-types, upon which wind turbine or other mechanical device is mounted.

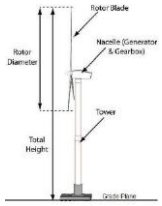


Figure 350-99: Wind Energy Conversion System

C. Use classification. An agricultural wind energy conversion system shall be classified as a customarily accessory use at a farm operation that is located wholly in an NYS-certified agricultural district.

D. Standards.

(1) Advertising. No advertising shall be allowed on any part of the wind energy conversion system, including the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower or blades. Reasonable identification of the wind energy conversion system by the manufacturer and owner is permitted.

(2) Capacity. An agricultural wind energy conversion system shall generate no more than 110% of the farm operation's anticipated demand at the time of application.

(3) Colors and surfaces of wind energy conversion system. Colors and surface treatment of all wind energy conversion system shall minimize visual disruption by using white, beige, off-white, gray or another non-reflective, unobtrusive color, unless mandated otherwise by the FAA.

(4) Lighting.

(a) Wind energy conversion system shall comply with all applicable FAA requirements for air traffic warning lights.

(b) No artificial lighting shall be allowed on wind energy conversion system except to the extent required by the FAA or other air safety authority. Minimal ground level security lighting is permitted.

(5) Minimum lot size. An agricultural wind energy conversion system shall be installed on a lot of record equal to or greater than seven acres.

(6) Maximum number per lot of record. A maximum of one agricultural wind energy conversion system shall be installed on a lot of record.

(7) Noise. An agricultural wind energy conversion system shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling at the time of installation. This level, however, may be exceeded during short-term events, such as utility outages and/or severe wind storms.

(8) Operation. All wind energy conversion system shall be maintained in operational condition meeting all of the requirements of this section at all times, subject to reasonable maintenance and repair outages. If the wind energy conversion system becomes inoperative, damaged, unsafe, or violates a standard, the owner shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by 90 days.

(9) Safety.

(a) The minimum distance from the ground to the rotor blade tips shall not be less than 20 feet.

(b) Wind energy conversion system shall not be climbable up to 15 feet above the ground. This can be achieved through anticlimbing devices or a fence around the tower with locking portals at least six feet high.

(c) All access doors on towers or to electrical equipment shall be locked or fenced.

(d) There shall be clearly visible signs on all wind energy conversion system, electrical equipment, and wind energy facility entrances warning of electrical shock or high voltage and harm from revolving machinery. Signage shall also include twenty-four-hour emergency contact information.

(e) Each wind energy conversion system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind energy conversion system. No wind energy conversion system shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(f) All structures which may be charged with lightning shall be grounded according to the NEC.

(10) Setbacks.

(a) Each wind energy conversion system shall be set back 1.5 times its height from all existing residences on a nonparticipating owner's lot of record.

(b) Each wind energy conversion system shall be set back two times its height from the nearest school, hospital, place of worship, or public library.

(c) Each wind energy conversion system shall be set back 1.5 times its height from all lot lines, overhead utility or transmission lines, other towers, electrical substations, meteorological towers, and roads.

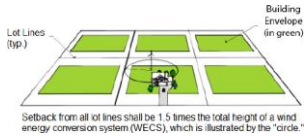


Figure 350-100: Wind Energy Conversion System Setback from Lot Lines

(d) Each wind energy conversion system shall be set back 1.5 times tower height from all structures and buildings. Exemption(s):

[1] A wind energy conversion system is not required to be setback from structures and buildings at a participating owner's property.

(e) Waivers. Setbacks may be waived by the designated approval authority if there is written consent from the affected owner(s) stating that he/she/they are aware of the wind energy conversion system and the setback limitations imposed by this section and that his/her/ their consent is granted to allow reduced setbacks. However, in order to advise all subsequent owners of the burdened property, the consent shall be in the form required for an easement describing the benefited and burdened properties and shall be recorded at the office of the County Clerk. The easement shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of decommissioning of the benefitted wind energy conversion system in accordance with this section, or the acquisition of the burdened lot of record by the owner of the benefitted parcel.

(11) Total height. The total height of an agricultural wind energy conversion system shall not exceed 150 feet.

E. Abatement and decommissioning. An agricultural wind energy conversion system that is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the lot of record at the expense of the owner.

F. Tax exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

G. Public service agency notification. The owner of an agricultural wind energy conversion system shall provide written authorization that the applicable public service agency has approved his/her/their intent to install an interconnected customer-owned small wind energy conversion system. Off-grid wind energy conversion systems shall be exempt from this requirement.

§ 350-102. Wind energy conversion system, large.

A. Intent. This section is designed to properly regulate and site large wind energy conversion systems and, thus, deal with potential problems they can create, including aesthetic impacts, drainage problems, harm to farm operations, a risk to bird and bat populations, risks to the property values of adjoining properties, significant noise, traffic problems during construction, and electromagnetic interference with various types of communication. Exemption(s):

(1) The substantive and procedural requirements of this section shall not apply to any wind energy conversion system that is governed by Article 10 of the Public Service Law of NYS, as currently in effect and as hereafter amended from time to time.

B. Specific definitions. The terms prescribed in the section of this chapter pertaining to agricultural wind energy conversion systems shall also be applicable to large wind energy conversion systems.

C. Use classification. A large wind energy conversion system shall be classified as an accessory use at a lot of record.

D. Application. In addition to the application requirements for a special use permit, an application for a large wind energy conversion system shall include the following additional information:

(1) Construction plan. A detailed construction plan, including but not limited to a construction schedule, hours of operation; designation of heavy haul routes; a list of material equipment and loads to be transported; identification of temporary facilities intended to be constructed and contact agent in the field with name, email address and telephone number.

(2) Decommissioning and site restoration plan. A decommissioning and site restoration plan that shall identify the lot(s) of record it applies to and shall indicate removal of all buildings, structures, wind turbines, access roads and/or driveways and foundations to four feet below finish grade; road repair costs, if any; and all regrading and revegetation necessary to return the site to the condition existing prior to establishment of the commercial wind energy conversion system. The restoration shall reflect the site specific character, including topography, vegetation, drainage, and any unique environmental features. The plan shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.

(3) Description. A description of the project, including the number of wind energy conversion systems, data pertaining to each tower's safety and stability, including safety results from test facilities and certification from the turbine manufacturer that the turbine is manufactured to operate at safe speeds, and, for each wind energy conversion system, the make, model, a picture, and manufacturing specifications, including noise decibel data and maximum rated capacity.

(4) Emergency response plan. A detailed emergency response plan created in consultation with the emergency response agency(ies) having jurisdiction over the site. The proposed plan may include, but is not limited to, the following:

(a) Fireproof or fire-resistant building materials.

(b) Buffers or fire-retardant landscaping.

(c) Availability of water.

(d) An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment.

(e) Provision of training and firefighting equipment for local fire protection personnel.

(5) Engineering report. This shall be prepared by a professional engineer and provide information regarding:

(a) Ice throw. The report shall calculate the maximum distance that ice from the turbine blades could be thrown.

(b) Blade throw. The report shall calculate the maximum distance that pieces of the turbine blades could be thrown.

(c) Catastrophic tower failure. The report shall include a statement from the turbine manufacturer detailing the wind speed and conditions that the turbine is designed to withstand.

(d) Certification that the foundation and tower design are sufficient to withstand wind-loading requirements for structures as established by the Uniform Code.

(6) FAA notification. A copy of written notification to the FAA pertaining to the installation of a wind energy conversion system.

(7) Insurance. Proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation of the proposed project. The Town shall be named as an additional insured under the general liability policy of the applicant.

(8) Landscaping plan. A landscaping plan prepared and sealed by a registered design professional showing the current vegetation, describing the area to be cleared, listing the specimens proposed to be added, and detailing regrading and restoration measures to be taken after construction according to NYSDAM and NYSDEC guidelines. The plan should also include details pertaining to erosion and sediment control as well as stormwater management pursuant to any applicable regulation of the NYSDEC.

(9) NYSERDA. Evidence from NYSERDA that the site is feasible for commercial wind energy generation.

(10) Site plan. A site plan prepared and sealed by a licensed land surveyor or registered design professional drawn in sufficient detail to clearly show the following:

(a) Lot lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.

(b) Roads, whether private or public.

(c) Adjoining properties within 500 feet of the site, including zoning designations, residences, schools, churches, hospitals, and libraries within 1,000 feet of each tower.

(d) The proposed location, elevation, and total height of each wind energy conversion system.

(e) Aboveground and underground utility lines within a radius of 1.5 times the total height of the wind energy conversion system.

(f) Setback lines.

(g) All other proposed facilities on the site, including transformers, electrical lines, substations, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.

(h) Federal, state, county or local parks, recognized historic or heritage sites, state and federal identified wetlands, or important bird areas within a radius of 10 miles, as identified in federal, state, county, local or New York Audubon's GIS databases or other generally available documentation.

(11) Studies. Studies prepared by a qualified person on:

(a) Agricultural mitigation. An analysis detailing the agricultural mitigation needed to restore a farm operation disturbed by a wind energy conversion system. The applicant shall solicit input from the NYSDAM on such studies and shall follow any pertinent protocols established, adopted, or promulgated by such state department.

(b) Avian impact. An analysis of bird and bat migration, nesting, and habitat that would be affected by the proposal. The applicant shall solicit input from the NYSDEC on such studies and shall follow any pertinent protocols established, adopted, or promulgated by such state department.

(c) Cultural resources. An analysis describing the potential impacts of the project upon cultural resources as identified by NYSOPRHP. Such study shall be approved by such state office and include any follow-up study or assessment recommended by NYSOPRHP.

(d) Electromagnetic interference. An analysis of the potential for electromagnetic interference with microwave, radio, television, personal communication systems, 911, and other wireless communication. A copy of the written notification to all communication operators within two miles of the project shall be attached to such study.

(e) Fiscal and economic impact. A property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact on the value of lots of record adjoining the project site.

(f) Geotechnical impact. An analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.

(g) Land use and water impacts. An analysis detailing potentially impacted wetlands, surface water and groundwater resources, and the geology and land use of the site.

(h) Noise. A noise analysis that shall include a description and map of the project's noise- producing features and the noise-sensitive environment, including the range of noise levels and the tonal and frequency characteristics expected. The applicant shall solicit input from the NYSDEC on such studies and shall follow any pertinent protocols established, adopted, or promulgated by such state department.

(i) Shadow flicker. An analysis that shall identify locations where shadow flicker may interfere with residences and roadways and the expected duration of the flicker. The study shall identify measures that shall be taken to eliminate or mitigate the problem, which may include ceasing operation during periods when shadow flicker effects are at its greatest.

(j) Visual impact. An analysis that shall include a computerized photographic simulation showing the site fully developed and demonstrating any visual impacts from strategic vantage points. The applicant shall solicit input from the NYSDEC on such studies and shall follow any pertinent protocols established, adopted, or promulgated by such state department.

(12) Transportation plan. A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction. A copy of the written notification to all local, state and/or federal transportation agencies shall be included in such plan.

(13) Wind energy conversion system drawings. Vertical drawings of all wind energy conversion systems, showing total height, turbine dimensions, tower and turbine colors, ladders, distance between the ground and the lowest point of any blade, and the location of climbing pegs and access doors. One drawing may be submitted for each wind energy conversion system of the same type and total height.

E. Standards.

(1) Advertising. No advertising shall be allowed on any part of the wind energy conversion system, including

the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower or blades. Reasonable identification of the wind energy conversion system by the manufacturer and owner is permitted.

(2) Ecosystems and animals. Wind energy conversion systems may not cause any violations of the Endangered Species Act[30] or of NYS endangered species regulations.

(3) Interference with electromagnetic communications, radio signals, microwave and television signals. No wind energy conversion system shall be installed in any location where its proximity with microwave communications, fixed broadcast, retransmission or reception antenna for radio, wireless phone, or other personal communications systems would produce substantial electromagnetic interference with signal transmission or reception. Any interference with television signals shall be mitigated.

(4) Colors and surfaces of wind energy conversion system. Colors and surface treatment of all wind energy conversion system shall minimize visual disruption by using white, beige, off-white, gray or another nonreflective, unobtrusive color unless mandated otherwise by the FAA.

(5) Landscaping. Subject to the owner's preference, the landscaping of the wind energy conversion system should be appropriate to screen accessory structures from roads and adjacent residences. It should be designed to minimize the impacts of land clearing and loss of open space.

(6) Lighting.

(a) Wind energy conversion system shall comply with all applicable FAA requirements for air traffic warning lights.

(b) No artificial lighting shall be allowed on wind energy conversion system except to the extent required by the FAA or other air safety authority. Minimal ground level security lighting is permitted.

(7) Minimum lot size. A large wind energy conversion system shall be installed on a lot of record equal to or greater than 20 acres.

(8) Operation.

(a) Maintenance. The owner of the wind energy conversion system shall submit an annual report of operations and maintenance to the Town.

(b) All wind energy conversion system shall be maintained in operational condition meeting all of the requirements of this section at all times, subject to reasonable maintenance and repair outages. If the wind energy conversion system becomes inoperative, damaged, unsafe, or violates a standard, the owner shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by 90 days.

(c) If the wind energy conversion system is not repaired or brought into compliance within the time frame stated above, the Town may, after a public hearing, order remedial action or revoke the special use permit and order removal of the wind energy conversion system within 90 days.

(d) Inspections. All wind energy conversion system shall be inspected annually for structural and operational integrity by a registered design professional. The Town has the right to enter the lot of record containing a wind energy conversion system at any reasonable time to inspect the wind energy conversion system.

(9) Noise.

(a) The noise level generated by a wind energy conversion system shall not exceed 45 dBA

for more than six minutes out of any one-hour time period, nor exceed 50 dBA for any time period, as measured at the lot line of a nonparticipating lot of record.

(b) The noise level generated by a wind energy conversion system shall not increase ambient sound levels by more than three dBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within 2,500 feet of the participating lot of record.

(c) If the ambient noise level measured at participating lot of record exceeds the standard, the standard shall be equal to the ambient noise level plus three dBA.

(d) Independent certification shall be required after construction demonstrating compliance with this noise standard.

(10) Safety.

(a) The minimum distance from the ground to the rotor blade tips shall not be less than 50 feet.

(b) Wind energy conversion system shall not be climbable up to 15 feet above the ground. This can be achieved through anticlimbing devices or a fence around the tower with locking portals at least six feet high.

(c) All access doors on towers or to electrical equipment shall be locked or fenced.

(d) There shall be clearly visible signs on all wind energy conversion system, electrical equipment, and wind energy facility entrances warning of electrical shock or high voltage and harm from revolving machinery. Signage shall also include twenty-four-hour emergency contact information.

(e) Each wind energy conversion system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind energy conversion system. No wind energy conversion system shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(f) All structures which may be charged with lightning shall be grounded according to the NEC.

(11) Setbacks.

(a) Each wind energy conversion system shall be set back 1.5 times its height from all existing residences on a nonparticipating owner's lot of record.

(b) Each wind energy conversion system shall be set back two times its height from the nearest school, hospital, place of worship, or public library.

(c) Each wind energy conversion system shall be set back 1.5 times its height from all lot lines, overhead utility or transmission lines, other towers, electrical substations, meteorological towers, and roads.

(d) Each wind energy conversion system shall be set back 1.5 times tower height from all structures and buildings other than residences on a nonparticipating owner's property.

(e) Waivers. Setbacks may be waived by the designated approval authority if there is written consent from the affected owner(s) stating that he/she/they are aware of the wind energy conversion system and the setback limitations imposed by this section and that his/her/ their consent is granted to allow reduced setbacks. However, in order to advise all subsequent owners of the burdened property, the consent shall be in the form required for an easement describing the benefited and burdened properties and shall be recorded at the office of the County Clerk. The easement shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted

upon either the completion of decommissioning of the benefitted wind energy conversion system in accordance with this section, or the acquisition of the burdened lot of record by the owner of the benefitted parcel.

(12) Shadow flicker. Wind energy conversion system shall be located in a manner that makes reasonable efforts to minimize shadow flicker to any building and/or structure on a nonparticipating owner's lot of record or road. An owner of a wind energy conversion system shall be required to undertake reasonable mitigation measures for shadow flicker, provided it allows the continued operation of the wind energy conversion system.

(13) Siting and installation.

(a) Any construction on agricultural land should be conducted according to the NYSDAM's "Guidelines for Agricultural Mitigation for Wind Power Projects."

(b) Connection of transmission lines from the wind energy facility to local distribution lines.

[1] No construction of any wind energy conversion system shall be started until evidence is given of a signed interconnection agreement or letter of intent with an interconnecting public service agency.

[2] A wind energy conversion system shall meet the requirements for interconnection and operation as set forth in the public service agency's regulations.

[3] Transmission lines and points of connection to local distribution lines should be combined to the extent possible. The wind energy conversion system should be connected to existing substations if possible, or if new substations are needed, the number should be minimized.

(c) Power lines. Power lines between wind energy conversion systems and any other buildings or structures should be completely underground. Power lines between wind energy conversion system and the on-site substation should be placed underground. Power lines for connection to a public service agency and transmission poles, towers, and lines may be aboveground.

(d) Road access to project site. Subject to the owner's preference, entrances to access roads shall be gated and kept locked. The project shall only use designated traffic routes established in the application review process. Routes should be chosen to minimize traffic impacts and shall take into consideration a wind energy conversion system adverse impact to traffic during school bus times, wear and tear on local roads, and impacts on local businesses. Existing roads should be used to the extent possible or, if new roads are needed, they should minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the wind energy conversion system.

(14) Total height. The total height of a large wind energy conversion system shall not exceed 400 feet.

(15) Traffic routes.

(a) Construction of large wind energy conversion systems poses potential risks because of the large sized construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for such systems and for associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include:

[1] Minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas; and

[2] Minimizing related traffic during times of school bus activity; and

[3] Minimizing wear and tear on local roads; and

[4] Minimizing impacts on local business operations; and

[5] A plan for disseminating traffic route information to the public.

(b) The applicant/owner is responsible for obtaining all necessary permits and repairing damage on all roads, whether such damage occurs during the construction or maintenance of a wind energy conversion system. All applicable local, county, state and federal highway departments shall approve the transportation plan and a copy of such approvals shall be submitted to the Town.

(16) Type of construction. A wind energy conversion system shall be of monopole construction (single pole). No lattice structures or guy-wire-supported structures shall be permitted.

F. Abatement, decommissioning, site restoration plan and bond.

(1) Abatement and decommissioning. If a wind energy conversion system is not operated for a continuous period of 12 months, the Town will contact the owner by registered mail and provide 90 days for a response. The owner is required to respond and set forth reasons for the stoppage and a timetable for action. If the Town has made all reasonable efforts to notify the owner but the owner does not satisfactorily respond, the Town can contract for removal and restoration using the money in the decommissioning bond, after salvage value, and charge the owner any difference in cost.

(2) Decommissioning and site restoration plan. The plan shall include:

(a) The anticipated life of the wind energy conversion system; and

(b) Triggering events for decommissioning and removal; and

(c) The estimated decommissioning costs in current dollars; and

(d) How the estimate was determined; and

(e) Provision for a re-estimate of such decommissioning costs every five years by a registered design professional; and

(f) The manner in which the wind energy conversion system will be decommissioned and the site restored, including removal of all structures, turbines, cabling, electrical components, debris, and foundations to a depth of four feet, restoration of the soil and vegetation, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the owner.

(3) A decommissioning bond payable to the Town in an amount to be determined by the Town for removal of nonfunctional wind energy conversion system and restoration of the site shall be maintained by the owner.

(4) The bond, letter of credit, or other equivalent form of security shall be confirmed to be sufficient to cover decommissioning and site restoration costs every five years.

G. Transfer and replacement.

(1) If ownership of a wind energy conversion system changes, the new owner shall present full contact information and proof to the Town that all required bonds and insurance policies remain in full force 30 days prior to the transfer of ownership.

(2) Any replacement of or modification or alteration to a wind energy conversion system, excluding regular maintenance and repair, requires an amendment to the special use permit, which amendment shall not be unreasonably withheld.

(3) Replacement of a wind energy conversion system may occur without an amendment to the special use permit when there will be:

(a) No increase in the total height of the wind energy conversion system; and

(b) No change in the location of the wind energy conversion system; and

(c) No additional lighting on the wind energy conversion system, except to the extent required by the FAA; and

(d) No increase in noise produced by the wind energy conversion system.

H. Tax exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

I. Public service agency notification. The owner of a large wind energy conversion system shall provide written authorization that the applicable public service has approved his/her/their intent to install an interconnected customer-owned large wind energy conversion system. Off-grid wind energy conversion systems shall be exempt from this requirement.

§ 350-103. Wind energy conversion system, small.

A. Intent. The intent of this section is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The Town Board finds these regulations are necessary to ensure that small wind energy conversion systems are appropriately designed, sited and installed.

B. Specific definitions. The terms prescribed in the section of this chapter pertaining to agricultural wind energy conversion systems shall also be applicable to small wind energy conversion systems

C. Use classification. A small wind energy conversion system shall be classified as an accessory use at a lot of record.

D. Standards.

(1) Accessory use. A small wind energy conversion system shall be classified as an accessory use.

(2) Advertising. No advertising shall be allowed on any part of the wind energy conversion system, including the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower or blades. Reasonable identification of the wind energy conversion system by the manufacturer and owner is permitted.

(3) Colors and surfaces of wind energy conversion system. Colors and surface treatment of all wind energy conversion system shall minimize visual disruption by using white, beige, off-white, gray or another nonreflective, unobtrusive color unless mandated otherwise by the FAA.

(4) Lighting.

(a) Wind energy conversion system shall comply with all applicable FAA requirements for air traffic warning lights.

(b) No artificial lighting shall be allowed on wind energy conversion system except to the extent required by the FAA or other air safety authority. Minimal ground level security lighting is permitted.

(5) Minimum lot size. A small wind energy conversion system shall be installed on a lot of record equal to or greater than five acres.

(6) Noise. A small wind energy conversion system shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling at the time of installation. This level, however, may be exceeded during short-term events, such as utility outages and/or severe wind storms.

(7) Operation.

(a) All wind energy conversion system shall be maintained in operational condition meeting all of the

requirements of this section at all times, subject to reasonable maintenance and repair outages. If the wind energy conversion system becomes inoperative, damaged, unsafe, or violates a standard, the owner shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by 90 days.

(b) If the wind energy conversion system is not repaired or brought into compliance within the time frame stated above, the Town may, after a public hearing, order remedial action or revoke the special use permit and order removal of the wind energy conversion system within 90 days.

(8) Safety.

(a) The minimum distance from the ground to the rotor blade tips shall not be less than 20 feet.

(b) Wind energy conversion system shall not be climbable up to 15 feet above the ground. This can be achieved through anticlimbing devices or a fence around the tower with locking portals at least six feet high.

(c) All access doors on towers or to electrical equipment shall be locked or fenced.

(d) There shall be clearly visible signs on all wind energy conversion system, electrical equipment, and wind energy facility entrances warning of electrical shock or high voltage and harm from revolving machinery. Signage shall also include twenty-four-hour emergency contact information.

(e) Each wind energy conversion system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind energy conversion system. No wind energy conversion system shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(f) All structures which may be charged with lighting shall be grounded according to the NEC.

(9) Setbacks.

(a) Each wind energy conversion system shall be set back 1.5 times its height from all existing residences on a nonparticipating owner's lot of record.

(b) Each wind energy conversion system shall be set back two times its height from the nearest school, hospital, place of worship, or public library.

(c) Each wind energy conversion system shall be set back 1.5 times its height from all lot lines, overhead utility or transmission lines, other towers, electrical substations, meteorological towers, and roads.

(d) Each wind energy conversion system shall be set back 1.5 times tower height from all structures and buildings other than residences on a nonparticipating owner's property.

(e) Waivers. Setbacks may be waived by the designated approval authority if there is written consent from the affected owner(s) stating that he/she/they are aware of the wind energy conversion system and the setback limitations imposed by this section and that his/her/ their consent is granted to allow reduced setbacks. However, in order to advise all subsequent owners of the burdened property, the consent shall be in the form required for an easement describing the benefited and burdened properties and shall be recorded at the Office of the County Clerk. The easement shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of decommissioning of the benefitted wind energy conversion system in accordance with this section, or the acquisition of the burdened lot of record by the owner of the benefitted parcel.

(10) Total height. The total height of a small wind energy conversion system shall not exceed 65 feet. Exemption(s):

(a) The total height shall not exceed 150 feet at a lot of record at a lot of record located in the Agriculture (AG), Commercial (C) or Light Industrial Zoning Districts.

E. Abatement and decommissioning. A small wind energy conversion system that is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the lot of record at the expense of the owner.

F. Tax exemption. The Town exercises its right to opt out of the tax exemption provisions of § 487 of the Real Property Tax Law of NYS, as currently in effect and as hereafter amended from time to time.

G. Public service agency notification. The owner of a small wind energy conversion system shall provide written authorization that the applicable public service agency has approved his/her/their intent to install an interconnected customer-owned small wind energy conversion system. Off-grid wind energy conversion systems shall be exempt from this requirement.

Part 5
Sign Control

ARTICLE VII
General Requirements

§ 350-104. Intent.

These regulations balance the need to protect the public safety and welfare, the need for a well maintained and attractive community, and the need for adequate identification, communication and advertising. The regulations for signs have the following specific objectives:

A. To ensure that signs are designed, constructed, installed and maintained according to minimum standards to safeguard life, health, property and public welfare; and

B. To allow and promote positive conditions for sign communication; and

C. To reflect and support the desired ambience and development patterns of the various zoning districts and promote an attractive environment; and

D. To allow for adequate and effective signs whose dimensional characteristics further the interests of public safety and the needs of the motorist, where signs are viewed from a road; and

E. To ensure that the constitutionally guaranteed right of free expression is protected.

§ 350-105. Applicability.

The requirements of this Part 5 apply to all signs located at a lot of record that is within the Town, which is outside the Village of Penn Yan. Additionally, this Part 5 is supplemental to the regulations of the particular zoning district in which a sign may be located and any other applicable regulations prescribed in this chapter. Exemption(s):

A. The requirements of this Part 5 may be modified by the designated approval authority as part of any planned unit development where alternative materials, design, or types of signage are proposed that meet or exceed the quality and purpose of this Part 5.

B. Signs regulated by the NYS Sign Program, for which the AHJ is NYSDOT.

C. Signs installed within an NYS right-of-way, for which the AHJ is the NYSDOT.

D. Signs installed within a county airport, for which the AHJ is the county.

E. Signs installed within a county right-of-way, for which the AHJ is the County Highway Superintendent.

F. Signs installed within a Town right-of-way, for which the AHJ is the Town Board.

G. Signs installed within a railroad right-of-way, for which the AHJ is the applicable railroad company.

§ 350-106. Authority.

This Part 5 is adopted pursuant to Article 2 of the Municipal Home Rule Law of NYS, as currently in effect and as hereafter amended from time to time.

§ 350-107. Substitution clause.

Notwithstanding anything contained in this chapter to the contrary, any sign erected pursuant to the provisions of this chapter or otherwise lawfully existing with a commercial message may, at the option of the owner, contain a noncommercial message in lieu of a commercial message. The noncommercial message may occupy the entire sign

face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the sign, provided that the sign is not a prohibited sign and provided that the standards prescribed in this Part 5 have been satisfied.

§ 350-108. Federal Lanham Act.

Federally registered trademarks may be included on signs without restriction to its design.

ARTICLE VIII
Specific Definitions

§ 350-109. Specific definitions.

The following terms are specific to signs as regulated by this Part 5:

ABANDONED SIGN — A sign which, for a period of at least one year or longer, no longer identifies or advertises an ongoing business, product, location, service, idea or activity conducted on the premises on which the sign is located. Exemption(s):

A. Off-premise advertising signs that do not contain any advertising copy due to the lack of a lease or rent of such signs, but are being maintained in accordance to this Part 5.

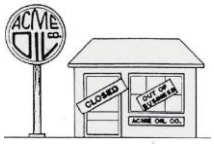


Figure 350-101: Abandoned Sign

ALTERATION — A change in the size or shape of an existing sign. Copy or color change of an existing sign is not an alteration. Changing or replacing a sign face or panel is not an alteration.

BANNER — A temporary sign constructed of a strip of cloth, paper, plastic, or other flexible material upon which copy is written and which is supported between poles or sticks or fastened to buildings or other structures.

BUILDING FRONTAGE — The total length in linear feet of the portion of a building that fronts directly on a road. Buildings with no road frontage shall use the linear feet of the portion of a building that has its principal entrance.

CANOPY SIGN — An on-premises sign attached to or made a part of a canopy; a canopy being a permanent structure which is made of cloth, metal or other approved materials, whether attached or unattached to a building, for the purpose of providing shelter or as a decorative feature. For clarification purposes, an awning sign shall be classified as a canopy sign. Lastly, please refer to Appendix A for examples of awning and canopy signs.[32]

CHANGEABLE MESSAGE CENTER, ELECTRONIC (EMC) — An on-premises, electronically activated changeable permanent sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location.

Figure 350-102: Electronic Changeable Message Center

CHANGEABLE MESSAGE CENTER, MANUAL — An on-premises, permanent sign that is changeable by manual (nonelectronic) means that is composed of individual letters panel-mounted in or on a track system.

Figure 350-103: Manual Changeable Message Center

COMMERCIAL MESSAGE — A message that identifies a business or advertises a product. This term is also known as "commercial speech."

CONSTRUCTION SIGN — A temporary sign identifying the persons, firms or business directly connected with a construction project.

Figure 350-104: Construction sign

DIRECTIONAL SIGN — An on-premises, permanent instructional sign directing or guiding pedestrian and/or vehicular traffic onto the property and/or toward parking or other identified locations on the lot of record.

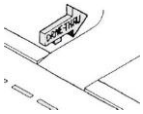


Figure 350-105: Directional Sign

FREESTANDING SIGN — An on-premises, permanent sign that is not attached to a building or structure. Please refer to Appendix A for examples of freestanding signs.[33]

GOVERNMENTAL SIGN — An on-premises sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

Figure 350-106: Government Sign

GROSS SIGN AREA — The total area of all signs located on a lot of record.

HEIGHT — The vertical distance from the grade plane immediately under a sign to the highest point of a sign structure, but shall not include architectural embellishments. Additionally, the ground shall not be altered for the sole purpose of providing additional height for a sign.

HOLIDAY DECORATIONS — Signs or displays including lighting which are a nonpermanent installation celebrating local, national, religious, state and other holidays or holiday seasons.

HOME OCCUPATION SIGN — A freestanding sign or wall sign that identifies a permitted home occupation.

Figure 350-107: Home Occupation Sign

IDENTIFICATION SIGN — An on-premises, permanent sign containing the name or address of a building and may include hours of operation and emergency information.

Figure 350-108: Identification Sign

ILLUMINATED SIGN — A sign illuminated by a light source. Such a sign shall be classified as either:

A. ILLUMINATED SIGN, EXTERNALLY — A sign illuminated by an external light source. Such source cannot be a device that changes color, flashes, or alternates.

Figure 350-109: Externally Illuminated Sign

B. ILLUMINATED SIGN, INTERNALLY — A sign illuminated by an internal light source.

Figure 350-110: Internally Illuminated Sign

INSTRUCTIONAL SIGN — An on-premises, permanent sign clearly intended for instructional purposes shall not be included in the permitted sum of the sign area, provided such sign is not larger than necessary to serve the intended purpose.

Figure 350-111: Instructional Sign

INTERIOR SIGN — Any sign placed within a building, but not including window signs. Interior signs, with the exception of window signs, are not regulated by this Part 5.

LANDMARK SIGN — An on-premises sign or visual element that is designated by the Zoning Board of Appeals as having historic and/or architectural significance. A landmark sign shall be at least 50 years old unless such board makes a finding that a newer sign that contains historic and/or architectural significance should be designated to protect it.

Figure 350-112: Landmark Sign

MARQUEE — A permanent canopy that is designed by a registered design professional that extends more than two feet from part or all of a building face, which may or may not project over a public right-of-way.

MARQUEE SIGN — Any on-premises sign painted on or attached to or supported by a marquee.

Figure 350-113: Marquee Sign

MULTITENANT SIGN — An on-premises freestanding sign used to advertise businesses that occupy a shopping center or complex with multiple tenants.

MURAL — A type of public art that is typically a hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message.

NONCOMMERCIAL MESSAGE SIGN — Any sign containing a political, philosophical, religious or other message not used for commercial purposes and not made in furtherance or promotion of a commercial product, service or enterprise.

NONCONFORMING SIGN — A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Part 5.

OFF-PREMISES SIGN — An outdoor sign whose message directs attention to a specific business, product, service, entertainment event or activity, or other commercial or noncommercial activity, or noncommercial message about something that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Such a sign shall be classified as either:

A. OFF-PREMISES SIGN, ADVERTISING — Any sign advertising a product, service, business or activity sold, located or conducted elsewhere than on the lot of record in which such sign is located.

Figure 350-114: Off-Premises Sign, Advertising

B. OFF-PREMISES SIGN, DIRECTIONAL — Any sign indicating the location of or directions to a business, office or other activity located or conducted elsewhere than on the lot of record in which such sign is located.

Figure 350-115: Off-Premises Sign, Directional

ON-PREMISES SIGN — An outdoor sign whose message and design relates to an individual business, profession, product, service, event, point of view, or other commercial or noncommercial activity sold, offered, or conducted on the same property where the sign is located.

PERMANENT SIGN — Any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign(s) or to the ground.

POLITICAL SIGN — A temporary sign identifying, either singly or combined, a political candidate, slate of candidates, issue, or party. These signs are used or intended to be used for the display of any announcement, advertisement or notice of any individual candidate or slate of candidates for any public office or similar political purposes.

Figure 350-116: Political Sign

PROJECTING SIGN — An on-premises building-mounted sign with the faces of the sign perpendicular to the building fascia. Please refer to Appendix A[34] for examples of projecting signs.

PUBLIC ART — Art in any media that has been planned and executed with the intention of being staged in the physical public domain, which is typically outside and accessible to all, and does not contain a commercial message.

Figure 350-117: Public Art

REAL ESTATE SIGN — A temporary sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominiums and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Figure 350-118: Real Estate Sign

ROOF SIGN — A sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections, such as canopies or marquees, shall not be considered to be roof signs. Please refer to Appendix A as well as Appendix C of this chapter for examples of roof signs and the difference between roof and wall signs.[35]

SIGN — Any device visible from a public way whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. In addition, a sign shall include its sign structure for the purposes of this article. Lastly, noncommercial flags or any other flags will not be considered to be signs.

SIGN AREA — The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. Please refer to Appendix B[36] of this chapter for computational methodology for various sign area configurations.

SIGN COPY — The letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals and/or letters identifying an address.

SIGN FACE — The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. Please refer to Appendix B[37] of this chapter for sign face computational illustrations.

A. In the case of panel or cabinet-type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

B. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

C. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

SIGN STRUCTURE — The aboveground poles, beams, columns, posts, foundations and/or framing providing structural support for the sign face.

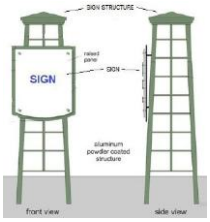


Figure 350-119: Sign Structure

SPECIAL EVENT — An event of temporary and limited duration, including, by way of example and not limitation, yard sales, sidewalk and boardwalk sales, special promotions, and public events.

SPECIAL EVENT SIGN — A temporary sign that is used to advertise or promote a special event.

Figure 350-120: Special Event Sign

TEMPORARY SIGN — Any nonpermanent sign that is temporary in nature and displayed in conjunction with a specific activity, as opposed to a sign which, under this Part 5, may be displayed on a permanent or indefinite basis. Types of temporary signs include, but are not limited to: real estate signs, construction signs, development signs, banners, pennants, flags, and streamers, inflatable displays, special event signs and yard sale signs.

VEHICLE SIGN — A sign attached to or painted on a vehicle parked and visible from the public way, unless such vehicle is used for transporting people or materials in the normal operations of the business and it is properly parking in a designated parking space. Signs attached to trailers or inoperable vehicles are presumed to be vehicle signs if they are parked in plain view from a public way. Bumper stickers are not vehicle signs.

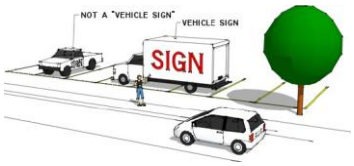


Figure 350-121: Vehicle Sign

WALL SIGN — An on-premises sign mounted on a building elevation with the face of the sign parallel to such elevation. Please refer to Appendix A[38] for examples of wall signs.

WARNING SIGN — An on-premises or temporary sign which provides warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned

building, etc.) or that provides warning of a violation of law (e.g., "no trespassing," "no hunting allowed," etc.).

Figure 350-122: Warning Sign

WINDOW SIGN — An on-premises sign affixed in any manner to a window such that it is intended to be viewable from the exterior. This term does not include merchandise located inside of a building or structure that is within close proximity of a window.

Figure 350-123: Window Sign

ARTICLE IX
General Provisions

§ 350-110. Compliance required.

No sign shall be erected, moved, or altered, except as otherwise allowed in accordance to this Part 5, unless and until a certificate of zoning compliance for such work has been obtained.

§ 350-111. Exempt signs.

The following signs shall be exempt from regulations prescribed within this Part 5 but may be subject to other laws enacted by an AHJ where applicable:

A. Business hours signs.

B. Closed/open signs.

C. Decals and/or logos affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.

D. Emblems, flags and insignia of government agencies, religious, charitable, public or nonprofit organizations.

E. Governmental signs.

F. Identification signs.

G. Instructional signs.

H. Interior signs.

I. Livestock breed and/or crop/seed identification signs.

Figure 350-124: Crop/Seed Identification Sign

J. No vacancy/vacancy signs.

K. Noncommercial message signs.

L. Painted and/or applied wall accents and decorations.

M. Public art, except for murals.

N. Religious symbols and holiday decorations/displays within the appropriate holiday season, which shall include lighting.

O. Safety signs.

P. Security and warning signs.

Q. Signs in cemeteries designating graves and/or memorials.

R. Signs incorporated into machinery or equipment by a manufacturer or distributor which identifies or advertises only the product or services dispensed by the machine or equipment, such as signs integrated into the design of vending machines, newspaper racks, telephone booths and gasoline pumps.

S. Temporary signs.

T. Utility line identification and location signs.

U. Window signs.

§ 350-112. Prohibited signs and design elements.

The following signs and their associated design elements shall be prohibited within the Town:

A. Prohibited signs. The following signs are prohibited in all areas of the Town:

(1) Abandoned signs.

(2) Animated or moving signs that are visible from public rights-of-way, including any moving, swinging, rotating, flashing, blinking, scintillating, fluctuating, or otherwise animated light. Exemption(s):

(a) Electronic changeable message centers.

(b) Landmark signs.

(3) Roof signs.

(4) Signs that contain the following content:

(a) Text or graphics that are obscene as defined and regulated by § 235.05 of the Penal Law of NYS, as currently in effect and as hereafter amended from time to time; or

(b) Text or graphics that display offensive sexual material as defined and regulated by § 245.11 of the Penal Law of NYS, as currently in effect and as hereafter amended from time to time.

(5) Signs that have more than two sign faces.

(6) Signs that prevent free ingress or egress from any door, window, fire escape or that prevent free access from one part of a roof to any other part. No sign shall be attached to a fire escape or components of a fire protection system (e.g., sprinkler and standpipe systems). Exemption(s):

(a) Signs mandated by the Uniform Code.

(7) Signs or sign structures that, by reason of their size, shape, design, location, content, coloring, or manner of illumination, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by obscuring or otherwise physically interfering with any official traffic control device, or which may be confused with an official traffic control device. No rotating beacon, beam, or flashing illumination resembling an emergency light shall be used in connection with any sign or sign structure. No words such as "stop," "look," "danger," or any words, phrases, symbols, or characters which in any manner may interfere with, mislead, or confuse vehicle operators shall be used in a location that is visible to vehicular traffic. No sign shall be located in such a manner as to impede a vehicle operator's line of sight (AKA "visibility triangle") at a road intersection.

(8) Sign or sign structures that violate any provision of any local, state or federal law relative to outdoor advertising.

(9) Vehicle signs.

B. Prohibited design elements of a sign or sign structure. The following elements shall not be used as an element of signs or sign structures, whether temporary or permanent:

(1) Bare light bulbs. Exemption(s):

(a) Landmark signs.

(2) Elements that cause interference with radio, telephone, television or other communications transmissions.

(3) Flashing lights. Exemption(s):

(a) Changeable message centers, electronic.

(b) Landmark signs.

(4) Mirrors and/or reflective materials or signs which produce light of such brightness as to constitute a hazard.

(5) Vehicles, unless:

(a) The vehicles are functional, used for their intended design as a vehicle, and have current registration and tags; and

(b) The display of signage is incidental to the vehicle use; and

(c) The vehicle is properly parked in a parking space or it is not visible from a public way.

(6) Semitrailers, shipping containers, or portable storage units, unless:

(a) The trailers, containers, or portable storage units are functional, used for their primary storage purpose, and, if subject to registration, have current registration and tags; and

(b) The display of signage is incidental to the use for temporary storage, pickup, or delivery; and

(c) The semitrailer is parked in a designated loading area or on a construction site at which it is being used for deliveries or storage.

(7) Sound, smoke, or odor emitters.

(8) Stacked products (e.g., tires, soft drink cases, bagged soil or mulch).

(9) Spinning or moving parts.

(10) Unfinished or untreated wood support structures.

§ 350-113. Nonconforming signs.

A. General provisions. Any sign legally existing at the time of the passage of this chapter that does not comply with the applicable provisions of this chapter shall be classified as a nonconforming sign. A nonconforming sign shall not be altered, modified or reconstructed except:

(1) When such alteration, modification or reconstruction would bring such sign into conformity with the applicable provisions of this chapter;

(2) When the existing use has new ownership that results in a change in the name and/or logo of the use or business on the property, and such changes comply with Subsection A(4) of this section;

(3) When the space is reoccupied by a similar use and the new occupant requires no external building or site renovations, and such changes comply with Subsection A(4) of this section; or

(4) Any alteration, modification or reconstruction permitted in this section shall be limited to the replacement of a sign panel, replacing individual letters and logos within the same area or repainting a sign face, and does not permit changes to the structure, framing, erection or relocation of the sign unless such changes conform to Subsection A(1) of this section.

B. Limitations on nonconforming signs. A nonconforming sign shall be removed upon verification that the use to which such nonconforming sign refers has been abandoned for more than one year, which would classify such sign as an abandoned sign.

C. Ownership. The status of a nonconforming sign is not affected by changes in ownership.

D. Repair and maintenance. A nonconforming sign or sign structure that has nonconforming elements may be removed temporarily to perform sign maintenance or sign repair.

E. Unintentional destruction. When a nonconforming sign or sign structure that has nonconforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the sign and sign structure may be rebuilt to the same size and height.

ARTICLE X
General Standards

§ 350-114. Construction, engineering and maintenance standards.

A. Construction standards.

(1) Signs shall be constructed of durable materials, designed to withstand predictable dead and live loads, and erected so as not to sustain damage and deterioration from the elements.

(2) If possible, signs should not be in locations that obscure architectural features, such as pilasters, arches, windows, cornices, etc.

(3) No signs shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress.

(4) Only single- or double-faced signs shall be allowed in the Town.

B. Engineering standards.

(1) Signs, sign structures, sign foundations and other methods to attach and anchor signs shall be designed and constructed in accordance with applicable provisions of the Uniform Code. All signs and their foundations and attachments shall be designed for the appropriate wind and snow loads for the geographic area in question.

(2) The Code Enforcement Officer may require construction documents for a sign to be prepared and sealed by a registered design profession if such sign is being attached to an existing building and/or structure.

C. Maintenance. All signs shall be maintained in accordance with the following:

(1) Every sign, which shall include the sign structure, shall be kept in a state of good repair and safe condition, including the replacement of defective parts, painting, cleaning and other acts required for the maintenance of such sign.

(2) A maintained sign is a sign that meets all of the following criteria:

(a) All sign faces, supports, braces, guys and anchors are kept in good repair.

(b) There is no evidence of deterioration, including rust, corrosion, dirt, fading, discoloration or holes.

(c) The sign does not have broken or missing sign faces or letters.

(d) There is no evidence of deteriorated (i.e., chipped, flaking and/or peeling) paint.

(e) There are no missing or inoperative lights.

(3) Whenever any sign, either conforming or nonconforming to the provisions of this Part 5, is required to be removed for the purpose of general repair, relettering or repainting, the same may be done without a certificate of zoning compliance ,provided that there is no enlargement or increase in any of the dimensions of the sign or its structure.

(4) When, for whatever reason, a sign is permanently removed from a building, pole, ground support, etc., all supporting devices shall also be removed. This may include, but is not limited to, brackets, pole, chains, posts, beams, slabs of bases, etc. Such supporting devices shall be removed at the time that the sign is removed.

§ 350-115. Electrified signs.

A. Lighting fixtures and wiring shall conform to the requirements of the NEC, as currently in effect and as hereafter amended from time to time, and other applicable codes and regulations, and all electrified signs shall bear the Underwriters' Laboratories label or approved equal. Further, all electrical connections for a sign shall be inspected and approved by an approved agency. Any liability, errors, and omissions directly related to such inspections are shared by the installer of the electrical installations and the approved agency, not the Town or any of its employees.

B. Transformers, wires and similar items shall be concealed.

C. All wiring to freestanding signs shall be underground.

§ 350-116. Height of a sign.

A. Maximum height of a sign. The maximum height of a sign shall comply with the following table:

Table 4 — Maximum Height of a Sign	
Zoning District	**Maximum Height of a Sign (feet)**
Agriculture	15
Agricultural Residential	15
Commercial	15
Hamlet	10
Lakefront Commercial	15
Lakefront Recreational	15
Lakefront Residential	10
Light Industrial	15

(1) Exemption(s):

(a) Height of signs as mandated by law.

(b) Wall signs are permitted to exceed the maximum height described within the above table but shall not project above the highest point of the building's wall where such sign is proposed to be affixed.

B. Measurement. The height of a sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground, to the highest point of the sign. A sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest surface of approximately flat ground, or a parking and/or road surface.

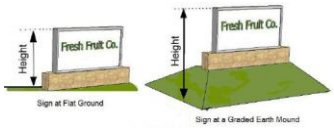


Figure 350-125: Example on How to Measure the Height of a Sign

(1) Exemption(s):

(a) Where a sign is mounted along a public road and within 25 feet from the edge of its right- of-way, the height of a sign shall be measured from the top surface at the center line of such road up to the highest point of such sign. In situations where a sign is intended to be visible from two or more public roads that have different elevations, the measurement shall be taken from the top surface at the center line of the lowest public road.

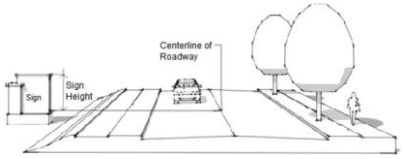


Figure 350-126: Example on How to Measure the Height of a Sign Along a Road

§ 350-117. Illuminated signs.

A. General. Illuminated signs shall be permitted in any zoning district and accomplished by means of shielded light sources or in such other manner that no glare shall extend beyond the lot lines of the lot of record upon which such

signs are located, and no glare shall disturb the vision of passing motorists or constitute a hazard to traffic. Furthermore, illumination shall be steady in nature, not flashing, moving or changing in brilliance, color or intensity. Lastly, illuminated signs do not constitute a form of outdoor lighting and are exempt from any other outdoor lighting regulations that the Town has adopted, or will adopt in the future. Exemption(s):

(1) Internally illuminated signs are prohibited in the Lakefront Residential (LRES) Zoning District.

B. Architectural lighting and embellishments. The following shall be allowed in any zoning district and shall not be considered signs if and only if they contain or include no words, graphics, logos or trademark symbols:

(1) Tubes or strips of lights that outline a building or a part thereof;

(2) Lighting that highlights part of a building; and/or

(3) Architectural embellishments such as but not limited to special rooflines, parapets, building extensions or accessories.

C. Bare bulb illumination. Illumination by bare bulbs is prohibited unless it is a landmark sign.

D. Externally illumined signs. External lighting fixtures used to illuminate a sign shall be mounted on the top of the sign structure and its illumination directed upon the sign. Bottom-mounted sign lighting is prohibited.

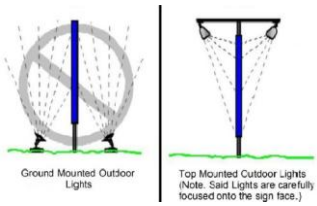


Figure 350-127: Example of an Externally Illuminated Sign

E. Internally illuminated signs. Internally illuminated signs shall be constructed of translucent materials and wholly illuminated from within. Dark backgrounds with light lettering or symbols are preferred but not mandatory in order to minimize detrimental effects.

Note. Dark backgrounds with light lettering or symbols are preferred.

Figure 350-128: Background and Lettering or Symbols at Internally Illuminated Signs

§ 350-118. Number of signs.

The maximum number of signs permitted for a use shall comply with the following table:

Table 5 — Maximum Number of Signs	
Zoning District	**Maximum Number of Signs for Each Use**
Agriculture	4
Agricultural Residential	4
Commercial	6
Hamlet	2
Lakefront Commercial	4
Lakefront Recreational	4
Lakefront Residential	2
Light Industrial	6

§ 350-119. Placement of signs and sign structures.

All signs and sign structures shall be erected upon and/or attached to a structure located within a lot of record and such placement shall be approved by the owner. No sign or sign structure shall be erected within 10 feet of any public right-of-way unless specifically authorized by an AHJ.

§ 350-120. Sign area.

A. Calculation of sign area.

(1) Awnings and marquees. When graphics or sign copy is incorporated into an awning, the sign area is determined by computing the area of a standard imaginary geometric shape or combination of shapes drawn around the sign copy area or graphics. When the ends of awnings or marquees are parallel and contain graphics or sign copy, only one side is counted in addition to the sign face area on the front.

(2) Double-faced signs. Only one face of a double-faced sign is counted in determining the sign area if such sign faces are parallel or form an interior angle equal to or less than 45°, provided that the signs are mounted on the same structure.. Where the two faces are not of equal size, the larger of the two faces shall be used for the determination of the area of a sign. Exemption(s):

(a) The area of a double-faced sign where the interior angle is greater than 45° or the sign faces are mounted on different structures shall be the sum of the areas of all the faces of such sign.

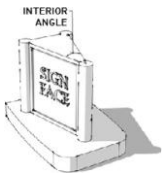


Figure 350-129: Double-Faced Sign

(3) Signs containing integral background areas. The area of a sign containing a clearly defined background area shall be calculated based on the area of the smallest standard geometric shape or combination of geometric shapes capable of encompassing the perimeter of the background area of the sign. In the case of signs in which multiple background areas are separated by open space, sign area shall be calculated based on the sum of the areas of all separate background areas, calculated as referenced above, but without regard for any open space between the separate background areas.

(4) Signs without integral background areas. In instances in which a sign consists of individual elements, such

as letters, symbols, or other graphic objects or representations that are painted, attached to, or otherwise affixed to a surface such as a wall, window, canopy, awning, architectural projection, or to any surface not specifically designed to serve as a sign background, the sign area shall be based on the sum of the individual areas of the smallest geometric shape or combination of geometric shapes capable of encompassing the perimeters of the individual elements comprising the sign.

B. Maximum sign area. The maximum sign area permitted at a lot of record shall comply with the following table:

Table 6 — Maximum Sign Area

Zoning District	Maximum Sign Area (square feet)
Agriculture	100
Agricultural Residential	100
Commercial	150
Hamlet	100

Table 6 — Maximum Sign Area	
Zoning District	Maximum Sign Area (square feet)
Lakefront Commercial	150
Lakefront Recreational	100
Lakefront Residential	50
Light Industrial	150

§ 350-121. Traffic visibility.

No sign or sign structure shall be erected at the intersection of any road in such a manner as to obstruct free and clear vision, nor at any location where, by its position, shape or color, it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

§ 350-122. Type.

The type of a sign and how it is permitted in a zoning district is prescribed in the following table:

Table 7 — Types of Signs Allowed in Each Zoning District								
Type of Sign	Zoning District							
	Agriculture	Agricultural Residential	Commercial	Hamlet	Lakefront Commercial	Lakefront Recreational	Lakefront Residential	Light Industrial
Canopy	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Prohibited	Permitted
Changeable message center, electronic	Prohibited	Prohibited	Special use permit	Prohibited	Special use permit	Special use permit	Prohibited	Special use permit
Changeable message center, manual	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Prohibited	Permitted
Free- standing	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Murals	Special use permit	Special use permit	Special use permit	Special use permit	Special use permit	Special use permit	Prohibited	Special use permit
Off-premises advertising	Prohibited	Prohibited	Special use permit	Prohibited	Prohibited	Prohibited	Prohibited	Special use permit
Off-premises directional	Special use permit	Special use permit	Special use permit	Special use permit	Special use permit	Special use permit	Prohibited	Special use permit
Projecting	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Roof	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Wall	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted

ARTICLE XI
Specific Standards

§ 350-123. Canopy signs.

A. General. The permanently-affixed copy area of canopy or marquee signs shall not exceed an area equal to 25% of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.

B. Awning signs.

(1) Amount permitted. On a multitenant property, one awning sign shall be allowed over each tenant's entrance.

(2) Awning signs shall not be internally illuminated.

§ 350-124. Changeable message centers, electronic.

A. Amount permitted. Only one electronic changeable message center is permitted per lot of record.

B. Maximum sign area. The maximum sign area of the electronic changeable message center at any sign shall not exceed 32 square feet or 40% of a sign that such message center is incorporated into; whichever is smaller.

C. Specifications.

(1) Electronic changeable message centers are permitted, provided that the copy does not change more than once every 30 seconds and the electronic changeable message center does not exceed 50% of the total area of all signs that is permitted at the lot of record.

(2) All electronic changeable message centers are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

(3) All electronic changeable message centers shall be made available for amber alerts and other emergency community notifications as deemed necessary by the law enforcement agency having jurisdiction.

(4) All electronic changeable message centers shall contain a default design that will freeze the message in one position in the event of a malfunction.

(5) All electronic changeable message centers shall be tested for electromagnetic compatibility and electromagnetic interference to avoid radio frequency interference from such sign with radios, cellular telephones, radar, TV signals, hospital equipment, etc.

(6) No electronic message is permitted to be repeated by flashing more than once every 16 seconds.

§ 350-125. Changeable message centers, manual.

Manual changeable message centers may be incorporated into signage as follows:

A. Manual changeable message centers are only permitted at permanent signs or marquee signs, which enclose the message center component on all sides with a finish of brick, stone, stucco, powder coated or comparably finished metal, or sign face that extends not less than one foot from the message center in all directions. Gaps between the message center and the finish are permitted to accommodate locks and hinges for a cover for the message center component, but only to the extent necessary for such locks and hinges to operate.

B. Manual changeable message centers shall not be internally lit unless:

(1) Such centers use opaque inserts with translucent letters, numbers, or symbols; and

(2) Blank opaque inserts that are the same color as the opaque portions of the letters, numbers, and symbols are used over all areas of the sign where copy is not present; and

(3) The opaque portion of the letters, numbers, and symbols is the same color.

§ 350-126. Freestanding signs.

A. Location. No part of any freestanding sign shall be located within 10 feet of any property line.

B. Number. Only one freestanding sign shall be permitted on a lot of record even if there is more than one building or use on that lot.

§ 350-127. Home occupation signs.

A home occupation shall be permitted to have one sign that conforms to the following:

A. A sign for a home occupation shall not be illuminated; and

B. A sign for a home occupation shall have a maximum sign area of 16 square feet; and

C. A sign for a home occupation shall have a maximum height of six feet.

§ 350-128. Landmark signs.

Landmark signs shall be exempt from size, height, and setback regulations but shall comply with all other regulations set forth in this Part 5.

§ 350-129. Marquee signs.

A. General. Marquee signs, which may include changeable message centers, whether electronic or manual, shall be allowed only at assembly uses intended for the production and viewing of the performing arts or motion pictures. Such changeable message center may cover no more than one square foot of sign area for each linear foot of such occupancy's building frontage.

B. Projection. Marquee signs, whether on the front or side, shall not project beyond the perimeter of the marquee.

§ 350-130. Menu boards.

Menu boards shall be allowed only as an accessory use to assembly uses intended for food and/or drink consumption having a drive-through window, provided that:

A. Such signs shall not exceed 50 square feet in area and eight feet in height; and

B. There shall be no more than three such signs per property.

§ 350-131. Murals.

The purpose of regulating murals is to ensure the continued visual aesthetic of the community, by allowing for compatible artistic and creative expression through murals in appropriate locations and designs. The following criteria seek to establish guidance as to the compatibility and appropriateness of the theme, location and design of murals, with minimal intrusion into artistic expression and/or the substantive, personal or political expressive content of the artwork.

A. Design.

(1) The scale of the mural shall be appropriate to the building and the site.

(2) The mural shall be appropriate within the context of the surrounding neighborhood.

(3) The mural shall be an original design.

(4) Sponsor and artist names may be incorporated but shall be discreet and not exceed five 5% of the design.

(5) Paint utilized should be of a professional quality and intended for exterior use. Generally reflective, neon, and fluorescent paints should not be used.

(6) The mural shall have a weatherproof and vandalism-resistant coating.

B. Location of murals.

(1) The mural image shall be located on the elevation of structures that can be easily viewable to the public from a public way.

(2) The installation of a mural should complement and enhance the building and be incorporated architecturally into the facade.

C. Theme.

(1) The theme of the mural shall be respectful of the greater context of the community, including historic and sociocultural contexts.

Figure 350-130: Murals

§ 350-132. Off-premises signs.

A. Number per lot of record. Only one off-premises sign is permitted on a lot of record.

B. Off-premises advertising sign.

(1) Area. The maximum sign area of an off-premises advertising sign shall be 160 square feet per sign face, one sign face per directional flow of traffic per sign structure.

(2) Height. The maximum height of an off-premises directional sign shall be 20 feet.

(3) Location. The location of an off-premises advertising sign shall comply with all of the following:

(a) Off-premises advertising signs shall be located only on a lot of record contiguous to an NYS designated road. Furthermore, off-premises advertising signs shall be located in the vicinity of an NYS designated road that requires such signs to be regulated by the NYS Signs Program, which is administered by the NYSDOT.

(b) Off-premises advertising signs shall not be located within a 300-foot radius of an intersection of two or more public roads or from any bridge.

(c) Off-premises advertising signs shall not be located closer than 300 linear feet from any other off-premises advertising sign measured from either side of the same road.

(d) Off-premises advertising signs shall not be located within a 300-foot radius of any cemetery, place of worship, park or school.

(4) Setback. The setbacks of an off-premises advertising sign shall comply with all of the following:

(a) An off-premises advertising sign shall be set back 10 feet from the right-of-way of a public road and 25 feet from any side lot line.

(b) An off-premises advertising sign shall not be located in a rear yard at a lot of record.

(c) An off-premises advertising sign shall be set back 25 feet from any building and/or structure.

C. Off-premises directional sign. Where permitted by this Part 5, off-premises directional signs shall comply with the following regulations:

(1) Area. The maximum sign area of an off-premises directional sign shall be 32 square feet.

(2) Height. The maximum height of an off-premises directional sign shall be 15 feet.

(3) Location.

(a) Off-premises directional signs may be located near intersections on a county-, state- and/ or Town-designated road but shall not be located in the visibility triangle as prescribed in this chapter. Such signs shall take advantage of natural terrain, shall have minimal impact on the scenic environment, and shall avoid visual conflict with other signs, signals, or devices within the road's right-of-way.

(b) Each advertised facility shall be limited to one off-premises directional sign for each direction of travel on a road.

(c) An advertised facility shall be within five miles from the road containing the off-premises directional sign. In very rare circumstances, an advertised facility may be more than five miles if such facility is of significant tourist interest, as determined by designated approving authority.

(d) Off-premises directional signs shall not be located closer than 100 linear feet from any other off-premises directional sign measured from either side of the same road.

(4) Setback. The setbacks of an off-premises directional sign shall comply with all of the following:

(a) An off-premises directional sign shall be set back 10 feet from the right-of-way of a public road and 10 feet from any side lot line.

(b) An off-premises directional sign shall not be located in a rear yard at a lot of record.

(c) An off-premises direction sign shall be set back 25 feet from any building and/or structure.

§ 350-133. Projecting signs.

A. General. Projecting signs shall be permitted on any building elevation but shall be limited to one sign per occupancy along any frontage with public entrance to such occupancy, and shall have a clearance of not less than eight feet above the sidewalk or surrounding grade plane and not less than 15 feet above any public driveway or road. Such sign shall not project into any public right-of-way without authorization granted by the AHJ.

B. Attachment. Projecting signs shall be safely and securely attached to a building or structure.

§ 350-134. Wall signs.

A. General. Wall signs shall:

(1) Not extend above the top of the wall, nor beyond the ends of the wall to which the signs are attached.

(2) Be parallel to the wall to which it is attached and shall not project more than 12 inches therefrom.

B. Attachment. Wall signs shall be safely and securely attached to the wall to which the signs are attached. Wood

blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.

§ 350-135. Window signs.

Window signs subject to the following limitations:

A. Permanent window signs shall not exceed 40% of the area of a window and the total area of all window signs, including both permanent and temporary, shall not exceed 50% of the window area.

B. Window panels separated by muntins or mullions shall be considered as one continuous window area.

C. Window signs shall not be assessed against the sign area permitted for other sign types.

D. The display of merchandise available to be purchased shall not be considered as a sign.

ARTICLE XII
Signs for Multitenant Developments

§ 350-136. Master sign plan required.

All multitenant developments, such as but not limited to shopping centers or planned industrial parks, shall submit to the designated approval authority a master sign plan prior to issuance of any certificates and/or permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

A. Proposed sign locations.

B. Materials.

C. Type of illumination.

D. Design of sign structures.

E. Size.

F. Quantity.

G. Uniform standards for non-business-related signage, including directional and informational signs.

§ 350-137. Multitenant signs.

A. One multitenant sign shall be permitted per multitenant development.

B. A minimum separation of 50 feet shall be maintained between all other signs.

C. Multitenant signs shall be located within the multitenant development for which they advertise and only tenants of such development may advertise on the sign. Any business advertising on a multitenant commercial sign may not have a freestanding sign within such development.

Figure 350-131: Multitenant Sign

§ 350-138. Compliance with Master Sign Plan.

All applications for certificate of zoning compliance for signage within a multiple-occupancy development complex shall comply with the Master Sign Plan.

§ 350-139. Amendments.

Any amendments to a master sign plan shall be signed and approved by the owner(s) of the development complex before such amendment will become effective.

Part 6
Administration And Enforcement

ARTICLE XIII
Code Enforcement Officer

§ 350-140. Code Enforcement Officer.

The Code Enforcement Officer is authorized and directed by the Town Board to administer and enforce the provisions of this chapter. The Code Enforcement Officer shall have the authority to adopt policies and procedures in order to clarify the application of the provisions prescribed in this chapter. Such policies and procedures shall be in compliance with the intent and purpose of this chapter. Lastly, such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

§ 350-140.1. Appointment, powers and duties.

A. General. The appointment, powers and duties of the Code Enforcement Officer are prescribed in the Building Construction and Fire Prevention Law of the Town, as currently in effect and as hereafter amended from time to time. Said powers and duties shall also include the authority of the Code Enforcement Officer to receive, review and approve or disapprove applications designated by this chapter to said officer. Lastly, the Code Enforcement Officer shall be designated as the Building Inspector, as prescribed in § 138 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

B. Verification of compliance. The Code Enforcement Officer shall have the authority to require the owner or owner's agent to provide approved documentation that verifies compliance with this chapter. For example, the Code Enforcement Officer has the authority to require an owner or owner's agent to complete an approved document verifying the existing or proposed use of a building, land and/or structure to ensure compliance with this chapter.

§ 350-141. Identification.

The Code Enforcement Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this chapter.

§ 350-142. Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in a structure or upon a lot of record a condition in violation of this chapter, the Code Enforcement Officer is authorized to enter such structure or lot at reasonable times to inspect or perform the duties imposed by this chapter, provided that:

A. If such structure or lot is occupied, the Code Enforcement Officer shall present identification to the occupant, explain the reason(s) for the inspection and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.

B. If such structure or lot is unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of such structure or lot and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.

§ 350-143. Reviews and approvals.

The Code Enforcement Officer is authorized by the Town Board to undertake and grant the following reviews and approvals:

A. Certificate of zoning compliance. Applications for a certificate of zoning compliance and amendments thereto

shall be submitted to the Code Enforcement Officer for an administrative review and approved prior to certificate issuance.

B. Special use permit. The Code Enforcement Officer shall receive all applications for a special use permit and review for completeness and prepare submittals for review by the designated approval authority.

C. Variance. The Code Enforcement Officer shall receive all applications for an area and/or use variance and review for completeness and prepare submittals for review by the designated approval authority.

§ 350-144. Cooperation of other officials and officers.

The Code Enforcement Officer shall be authorized to request and shall receive, so far as required in the discharge of his or her duties, the assistance and cooperation of other officials and officers of the Town.

§ 350-145. Inspections.

The Code Enforcement Officer shall make all required inspections, or shall receive reports of inspection by an approved agency or individual. All reports by such agency or individual shall be in writing and be certified by a responsible officer of such agency or individual. The Code Enforcement Officer is authorized to request assistance of the Town Engineer or other qualified individuals to report upon unusual technical issues that may arise, but such assistance shall be approved by the Town Board.

§ 350-146. Inspection reports.

The Code Enforcement Officer is authorized to receive inspection reports by qualified inspection agencies and/or registered design professionals.

§ 350-147. Notices and orders.

The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this chapter.

§ 350-148. Records.

The Code Enforcement Officer shall keep official records of all business and activities specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

ARTICLE XIV
Amendment

§ 350-149. General.

The Town Board is the designated approval authority as it pertains to an amendment of this chapter and the Zoning Map. The amendment process herein established is intended to provide a means for making changes in the text of this chapter and the Zoning Map. It is not intended to relieve particular hardships nor to confer special privileges or rights but is intended as a tool to adjust the provisions of this chapter and the Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.

§ 350-150. Procedure.

The designated approval authority shall conform to the procedures prescribed in Article 2 of the Municipal Home Rule Law of NYS, as currently in effect and as hereafter amended from time to time.

A. Integration of procedures. Whenever a particular application requires multiple review(s) and approval(s), the designated approval authority shall integrate, to the extent practicable and consistent with any applicable law, his, her or their review and approval process.

§ 350-151. Determination criteria.

The designated approval authority shall review all facts and information that is the subject of a proposed amendment of this chapter or the Zoning Map to determine whether or not to approve such application.

A. Amendment of this chapter. The designated approval authority may amend this chapter when one of the following is determined to apply:

(1) The amendment is consistent with or implements the Comprehensive Plan and is not detrimental to the public welfare.

(2) A change in economic, technological, or land use conditions has occurred to warrant modification of this chapter.

(3) An amendment is necessary to correct an error in this chapter.

(4) An amendment is necessary to clarify the meaning or intent of this chapter.

(5) An amendment is necessary to provide for a use(s) that was not previously addressed by this chapter.

(6) An amendment is deemed necessary by the designated approval authority as being in the public interest.

(7) An amendment is deemed necessary to add or modify the procedures and/or responsibilities of a designated approval authority.

B. Amendment of the Zoning Map. The designated approval authority may amend the Zoning Map when all of the following is determined to apply:

(1) The amendment bears a substantial relationship to the public health, safety, or welfare.

(2) The amendment implements the Comprehensive Plan, or a substantial change in circumstances has occurred since the land, which is the subject of such amendment, was last zoned.

C. Planned unit development district.

(1) Determination criteria. The designated approval authority may amend this Chapter and the Zoning Map to create a planned unit development district when all the following is determined to apply:

(a) The planned unit development district shall be consistent with the land use goals and objectives prescribed in the Comprehensive Plan.

(b) The planned unit development district is compliant with the applicable general and specific standards for this type of development as prescribed in this Chapter.

(c) The planned unit development district shall not have an unmitigated significant adverse environmental impact as defined by SEQRA. This determination shall be made by the designated lead agency as prescribed by SEQRA.

(d) The planned unit development district shall significantly enhance the appearance, image, function, and economic sustainability of the community.

(e) The planned unit development district shall not overburden municipal services (e.g., fire protection, law enforcement, roads, sanitary sewer, stormwater conveyance and water distribution and/or treatment systems) and any utility system (e.g., NYSEG electric and/or gas system).

(2) Validity.

(a) General. Where a planned unit development district has not commenced within one (1) year of the date of adoption, this district shall become null and void and all rights thereunder shall terminate.

[1] Exemption(s):

[a] The designated approval authority is authorized to grant, in writing, one (1) or more extensions of time, for periods not more than one (1) year each. The extension shall be requested, in writing, by the owner and justifiable cause demonstrated.

(b) Master plan. The uses and standards prescribed in the master plan approved by the designated approval authority are the uses and standards for this district.

(3) Expiration. A planned unit development district shall expire if the necessary approvals (e.g., Building Permit, approvals from AHJs, etc.) are not obtained and/or the construction of the proposed planned unit development is not commenced within one (1) calendar year from the date of adoption. The designated approval authority is authorized to grant, in writing, one (1) or more extensions of time, for periods not more than one (1) calendar year each. The extension shall be requested by the owner and justifiable cause demonstrated.

(4) Amendments. An amendment to an approved planned unit development district shall be submitted to the designated approval authority accompanied by supporting information. This authority shall review the amendment and shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary. However, the following actions may be permitted without the need for a review by this authority:

(a) De minimis revisions.

(b) Revisions requested by an AHJ to ensure compliance with its applicable regulations and/or provision of law.

(c) Revisions that comply with any applicable standards prescribed in this Chapter.

(5) Revocation. The designated approval authority is authorized to revoke a planned unit development district under the provisions of this article when it is found, by inspection or otherwise, that there has been a false statement or misinterpretation as to the material facts in the application or documents on which such district was based, including, but not limited to, any one of the following:

(a) The planned unit development district is used for a lot of record or operates a use other than that for which it was approved.

(b) Conditions and/or limitations set forth in the planned unit development district have been violated or not satisfied.

(c) There have been false statements or misrepresentations as to a material fact in the application for a planned unit development district or any attached documents.

(d) The owner failed, refused, or neglected to comply with orders or notices duly served in accordance with the provisions of this Chapter within the time provided therein.

(e) The planned unit development district was issued in error or in violation of this Chapter.

ARTICLE XV
Appeal

§ 350-152. General.

The Zoning Board of Appeals is hereby appointed by the Town Board as the designated approval authority as it pertains to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer.

§ 350-153. Procedure.

The designated approval authority shall conform to the procedures prescribed in § 267-a of the Town Law of NYS, as currently in effect and as hereafter amended from time to time, as it pertains to its actions on an application for an appeal.

A. Integration of procedures. Whenever a particular application requires multiple review(s) and approval(s), the designated approval authority shall integrate, to the extent practicable and consistent with any applicable law, his, her or their review and approval process.

§ 350-154. Application.

An applicant applying for an appeal shall submit a complete application to the Code Enforcement Officer, along with any applicable fee and payment of incurred costs. Such application shall be in writing on a form furnished by the Town for that purpose. At a minimum, such application shall contain all of the following:

A. The applicant's contact information and signed consent to the filing of this application.

B. A Short or full EAF, if an environmental review is mandated by SEQRA.

C. A copy of the order, decision or determination made by the Code Enforcement Officer that is the subject of the appeal.

D. A written statement by the applicant that explains how the Code Enforcement Officer incorrectly interpreted the requirements of this chapter, the provisions of this chapter do not fully apply or an equal or better form of compliance is proposed.

§ 350-155. Determination criteria.

An application for an appeal shall be based on a claim that the true intent of this chapter or the requirements legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply or an equal or better form of compliance is proposed.

§ 350-156. Limitations on authority.

The designated approval authority shall have no authority to amend or waive any requirement of this chapter.

ARTICLE XVI
Certificate of Zoning Compliance

§ 350-157. General.

The Code Enforcement Officer is hereby appointed by the Town Board as the designated approval authority as it

pertains to the issuance of a certificate of zoning compliance. A certificate of zoning compliance shall be obtained by an owner who intends to construct, enlarge, move, demolish and/or structurally alter a building, sign and/or structure. In addition, such certificate shall be obtained by an owner who intends to change the use of a building, land and/or structure. Exemption(s):

A. The granting of an area variance(s) shall be equivalent to the issuance of a certificate of zoning compliance.

B. The granting of a building permit shall be equivalent to the issuance of a certificate of zoning compliance.

C. The granting of a special use permit shall be equivalent to the issuance of a certificate of zoning compliance.

D. The granting of a use variance(s) shall be equivalent to the issuance of a certificate of zoning compliance.

E. The installation of exempt signs.

F. The installation of landscaping.

G. The maintenance and/or repair of buildings, land, signs and/or structures.

H. The replacement of a sign face(s) at a sign.

§ 350-158. Emergency actions.

The application for a certificate of zoning compliance shall be submitted within a reasonable amount of time but no greater than 10 business days to the designated approval authority for any action that must be performed in an emergency situation.

§ 350-159. Multiple certificates for the same location.

When more than one certificate of zoning compliance is required for the same location, the designated approval authority is authorized to consolidate such certificates into a single certificate of zoning compliance, provided that each provision is listed in such certificate.

§ 350-160. Application.

An applicant applying for a certificate of zoning compliance shall submit a complete application to the designated approval authority, along with any applicable fee and payment of incurred costs. Such application shall be in writing on a form furnished by the Town for that purpose. At a minimum, such application shall contain all of the following:

A. The owner's name and address, and the owner's signed consent to the filing of this application;

B. Identify and describe the use and/or scope of work to be covered by the certificate of zoning compliance for which application is made;

C. Description of the land on which the proposed use and/or scope of work is to be done by legal description, address or similar description that will readily identify and definitely locate the proposed use or scope of work;

D. A site plan; and

E. Give such other data and information as required by the designated approval authority.

§ 350-161. Site plan.

A. The application for a certificate of zoning compliance shall be accompanied by a site plan showing the size and

location of proposed scope of work as well as the distances from lot lines. The designated approval authority is authorized to waive or modify the requirement for a site plan when the application for certificate of zoning compliance is for an action where such plan is not warranted.

B. The owner is responsible to ensure that the work authorized by a certificate of zoning compliance is in compliance with the site plan. The designated approval authority does not perform inspections nor survey work as it pertains to the work authorized by a certificate of zoning compliance.

§ 350-162. Action on application.

A. General. The designated approval authority shall examine applications for a certificate of zoning compliance and amendments thereto within a reasonable time after filing. If the application or any attached documents do not conform to the requirements of this chapter, the designated approval authority shall reject such application in writing, stating the reasons for such rejection. If the designated approval authority is satisfied that the proposed use and/or scope of work conform to the requirements of this chapter, the designated approval authority shall issue a certificate of zoning compliance as soon as practicable.

B. Qualified consultants. The designated approval authority may refer an application for a certificate of zoning compliance and amendments thereto to a qualified consultant(s) for a recommendation of acceptability. The cost of such review shall be at the expense of the applicant.

§ 350-163. Amendments.

Uses and/or work shall be operated and/or installed in accordance with permitted action prescribed in the certificate of zoning compliance, and any changes that are not in compliance with such certificate shall be submitted as an amended application if such action is warranted by the designated approval authority. Such authority is authorized to waive the submission of an amended application when the change is:

A. De minimis revisions; or

B. Revisions requested by an AHJ to ensure compliance with its applicable regulations and/or provision of law; or

C. Revisions that comply with any applicable standard prescribed in this chapter.

§ 350-164. Conditions imposed upon a certificate of zoning compliance.

The designated approval authority may include in a certificate of zoning compliance such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of this chapter.

§ 350-165. Validity of certificate of zoning compliance.

The issuance of a certificate of zoning compliance shall not be construed to be an approval of a violation of any of this chapter. Certificates presuming to give authority to violate or cancel the provisions of this chapter shall not be valid. The issuance of a Certificate of zoning compliance based on a submitted application and other data shall not prevent the designated approval authority from requiring the correction of errors in such application and/or data. The designated approval authority is also authorized to prevent occupancy of a structure or use of a land where it is in violation of this chapter.

§ 350-166. Expiration.

A certificate of zoning compliance shall not expire unless the use of land or scope of work proposed in the application is not operated or completed within one calendar year from the date of issuance. The designated approval authority is authorized to grant, in writing, one or more extensions of time, for periods not more than one calendar year each. The extension shall be requested by the owner and justifiable cause demonstrated.

§ 350-167. Transferable.

A certificate of zoning compliance is transferable due to the fact that such certificate "runs with the land" since it applies to a use and/or work at a lot of record, which is not contingent on ownership.

§ 350-168. Revocation.

The designated approval authority is authorized to revoke a certificate of zoning compliance issued under the provisions of this section when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or documents on which such certificate was based, including, but not limited to, any one of the following:

A. The certificate of zoning compliance is used for a use or scope of work other than that for which it was issued.

B. Conditions and/or limitations set forth in the certificate of zoning compliance have been violated or not satisfied.

C. There have been any false statements or misrepresentations as to the material fact in the application for certificate of zoning compliance or any attached documents.

D. The owner failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

E. The certificate of zoning compliance was issued in error or in violation of this chapter.

ARTICLE XVII
Complaints

§ 350-169. Complaints.

The Code Enforcement Officer shall review and investigate complaints that claim the existence of conditions or activities that fail to comply with this chapter. However, the Code Enforcement Officer shall not review and/or investigate any complaint pertaining to a violation of law that is enforced by another AHJ (i.e., NYSDEC, NYSDOH, NYSDOT, etc.). Furthermore, a complaint pertaining to an agricultural use and/or farming operation shall be referred to the Agricultural Advisory Committee as prescribed by the Farming Law of the Town, as currently in effect and as hereafter amended from time to time. Lastly, the process for responding to a complaint shall include but is not limited to the following steps as deemed appropriate by the Code Enforcement Officer:

A. A complaint shall be made in writing, on a form provided by or the Code Enforcement Officer, and shall contain the name, contact information and signature of the complainant. Such form shall be certified by a notary public. Lastly, the burden of proof rests with the complainant if the alleged violation of law is not visible from a public way (e.g., violations located within a structure, etc.) or is a technical matter (e.g., dispute in lot/yard dimensions, erosion and/or stormwater control concerns, structural concerns, etc.) requiring an examination by an expert (e.g., land surveyor, registered design professional, YCSWCD, etc.) per the opinion of the Code Enforcement Officer. Exemption(s):

   (1) The Code Enforcement Officer shall investigate an anonymous and/or verbal complaint if the subject of concern constitutes an imminent threat to life and/or safety in the opinion of such officer.

B. Perform an inspection of the alleged violation from a public way or a lot of record, which such action shall be consistent with constitutional safeguards and any requisite warrant, in order to effectuate enforcement.

C. Documenting the results of an inspection.

D. Issue a notice of violation if a violation is found to exist, which shall grant the affected owner the opportunity to abate, correct or cure such violation, or otherwise proceeding in the manner described in this chapter.

E. Performing an inspection upon notification by affected owner to ensure that the violation has been abated or corrected as well as documenting such abatement or correction.

ARTICLE XVIII
Interpretations

§ 350-170. Interpretations.

A. General. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. If a proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this chapter and the applicable zoning district, it shall be classified as such identified use and shall be subject to the regulations for the use it most nearly resembles.

B. Interpretation from the Agricultural Advisory Committee. The designated approval authority shall have the authority to request an interpretation from the Agricultural Advisory Committee to assist his/her/their interpretation of agricultural related definitions and/or standards prescribed by this chapter.

C. Interpretation from the Zoning Board of Appeals. The Code Enforcement Officer shall have the authority to request an interpretation from the Zoning Board of Appeals to assist his or her interpretation ~~of a provision of this chapter.~~ of a definition and/or standard prescribed by this chapter.

D. Limitations on making interpretations. ~~The Code Enforcement Officer and the Zoning Board of Appeals Designated approvashall be permitted to make interpretations in any manner it deems fit; however, such Officer and Board shall not have the authority to alter or change this chapter or allow a use that which would be inconsistent with the requirements of this chapter; provided, however, that in interpreting and applying the provisions of this chapter, the requirements shall be deemed to be the spirit and intent of this chapter and do not constitute the granting of a special privilege.~~ Designated approval authorities shall be permitted to interpret and apply the law herein or any applicable regulations; however, such authorities shall not have the discretionary authority to alter or change this chapter or allow a use that which would be inconsistent with the requirements of this chapter; provided, however, that in interpreting and applying the provisions of this chapter, the requirements shall be deemed to be consistent with the purpose and intent of this chapter and do not constitute the granting of a special privilege or exception for any applicant and/or owner.

ARTICLE XVIII-A
Registration Permit.

§ 350-170.1. General.

A. Purpose and scope.

(1) Blighted premises. It is the intention of the Town Board to protect the public health, safety and welfare by authorizing the establishment of procedures to identify, abate and eliminate blighted premises throughout this town, outside the village.

B. Permit required.

(1) Blighted premises. A registration permit is required to be obtained by the owner for any blighted premises.

(a) The owner shall register his/her/their lot with the designated approval authority within thirty (30) calendar days from the issuance date of the notice.

(b) It shall be a violation of this chapter for failing to register a blighted premises as required by this article.

C. Designated approval authority. The Code Enforcement Officer is hereby appointed by the Town Board as the designated approval authority as it pertains to denying or granting registration permits as set forth in this article.

D. Authority. The designated approval authority has the authority to issue a registration permit pursuant to § 130 and § 138 of the Town Law of NYS.

§ 350-170.2 Procedure.

A. Blighted premises.

(1) Notice. The designated approval authority shall prepare and a serve a notice of blighted premises designation to the owner that his/her/their lot of record has been determined to be a blighted premises. This notice shall contain the contents required for and be served in the same manner prescribed in this chapter as a notice of violation. However, this notice shall also contain all the following:

(a) The required annual registration fee and the lot's placement on the blighted property inventory list.

(b) The requirement of the owner to execute a restoration agreement with this town.

(c) The requirement of the owner to obtain a registration permit within thirty (30) calendar days from the issuance date of this notice.

(2) Restoration agreement.

(a) The restoration agreement shall include a definite plan explaining the corrective action work that will correct cited property maintenance violations existing on the blighted premises. Furthermore, this plan shall be outlined on an explicitly fixed timeline.

(b) The designated approval authority shall review as well as approve or deny the restoration agreement.

(c) The owner’s failure to comply with an executed restoration agreement shall result in the retention of the lot on the blighted premises inventory list and the imposition of the corresponding annual registration fees applicable for each year that the property maintenance violations exist or remain.

§ 350-170.3. Application.

A. Blighted premises. To obtain a registration permit, the owner shall first file an application therefor in writing on a form furnished by the designated approval authority for that purpose. Such application shall contain all the following:

(1) The name and contact information of the owner.

(2) The address and/or tax map identification numbers of the lot of record that is the subject of the blighted premises.

(3) Be accompanied by the payment of the annual registration fee and any associated administrative/professional fees, surcharges, etc.

(4) Be accompanied by a restoration agreement signed by the owner.

(5) Be signed by the owner.

(6) Give such other data and information as required by the designated approval authority.

B. Action on the application. The designated approval authority shall examine or cause to be examined applications for registration permits and amendments thereto within a reasonable time after filing. If the application or accompanying documents do not conform to the requirements of pertinent laws, the designated approval authority shall reject such application in writing, stating the reasons therefor. If the designated approval authority is satisfied that the application and accompanying documents conform to the requirements of this chapter and laws and ordinances applicable thereto, this authority shall issue a registration permit therefor as soon as practicable.

C. Persistent blighted premises. The owner of any lot of record designated as a persistent blighted premises shall apply for a blighted premises' registration permit but shall also be assessed an annual surcharge for persistent blighted properties.

§ 350-170.4. Validity.

A. Blighted premises.

(1) Stay on enforcement. A registration permit issued for a blighted premises is a stay on enforcement that temporarily suspends legal actions by this town against the owner. It is not a dismissal of cited violation(s) and/or issued notices / orders but a temporary pause that grants the owner time to correct property maintenance violation(s) in accordance with an approved restoration agreement.

(2) Use. A registration permit issued for a blighted premises is to track and manage such premises as well as require the owner to submit a restoration agreement to eliminate property maintenance violation(s). This permit does not grant permission to operate a use and/or occupy/utilize a structure or lot of record.

§ 350-170.5. Conditions. The designated approval authority may include in a registration permit such terms and conditions as he/she/they deem necessary or appropriate to ensure safety or to further the purposes and intent of this article.

§ 350-170.6. Expiration.

A. Blighted premises.

(1) A registration permit shall expire one year after the date of issuance. The designated approval authority is authorized to grant, in writing, one or more extensions of time, for periods not more than one year each. The extension shall be requested in writing by the owner and justifiable cause demonstrated.

(2) Maximum extension. The Code Enforcement Officer shall not extend any registration permit beyond four (4) years from the original issuance date of such permit regardless if justifiable cause is demonstrated.

Exemption(s):

(a) Recommendation by the Town Attorney and adoption of a resolution by the Town Board.

§ 350-170.7. Amendments. An amendment to a registration permit shall be submitted to the designated approval authrotiy accompanied by supporting information. The designated approval authority shall review the amendment and shall grant, deny or amend such permit and impose conditions deemed necessary. However, the following actions may be permitted by the designated approval authority without the need for a review:

A. De minimis revisions.

B. Revisions requested by an AHJ to ensure compliance with its applicable regulations and/or provision of law.

C. Revisions that comply with any applicable standard prescribed in this chapter.

§ 350-170.8. Transferable. A registration permit is not transferable. Upon real property transfer, the new owner shall apply for and obtain a registration permit if mandated by this chapter.

§ 350-170.9. Revocation. The designated approval authority is authorized to revoke a registration permit issued under the provisions of this article when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or construction documents on which the registration permit or approval was based, including, but not limited to, any of the following:

A. The registration permit is used for a lot of record or use other than that for which it was issued.

B. The registration permit is used for a condition or activity other than that listed in such permit.

C. Conditions and limitations set forth in the registration permit have been violated.

D. There have been any false statements or misrepresentations as to the material fact in the application for registration permit or the submittal documents.

E. The registration permit is used by a different person than the name for which it was issued.

F. The owner failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

G. The registration permit was issued in error, or in violation of this chapter, or any applicable provision of law.

ARTICLE XIX
SEQRA

§ 350-171. Procedural time limits.

The SEQR process may extend the various procedural time limits set forth throughout this chapter. For those actions taken under this chapter that are subject to SEQRA, all time frames and deadlines otherwise set forth in this chapter may be delayed until a determination of significance has been made and, if required, a draft EIS has been filed.

§ 350-171.1. EAF.

A. General. The applicant is responsible for submitting an EAF prepared and approved by the NYSDEC when an environmental review is required by SEQRA.

§ 350-171.2. Coordinated review.

A. General. A coordinated review shall comply with the applicable provisions of SEQRA. In addition, the applicant shall be responsible for all the following:

(1) Identifying all interested and involved agencies that have discretionary decisions with respect to the proposed action.

(2) Posting of the application on a file-hosting service. An applicant shall post the application and any other necessary documents on a file-hosting service prior to the public hearing and/or meeting with the designated approval authority. The applicant shall provide the website address (a.k.a., website link) to the designated approval authority to allow this address to be included in required notices such as but not limited to establishment of lead agency, coordinated review, and public hearing(s).

(a) File format. The application and any other necessary documents shall be posted on a file-hosting service as a PDF and be set as "read-only".

§ 350-172. Type 1 actions.

~~Upon determination that an application is classified as a Type 1 action as designated by this chapter or SEQRA, the designated approval authority has the authority to transmit such application to the Town Attorney, Town Engineer and/or a qualified consultant for his/her/their review and recommendations. Furthermore, the Town Attorney, Town Engineer and/or a qualified consultant may be required to assist the designated approval authority in his, her or their obligations as prescribed by SEQRA. The cost of such assistance and review shall be at the expense of the applicant.~~

A. Assistance in review. Upon determination that an application is classified as a Type I action as designated by this chapter and/or SEQRA, the designated approval authority has the authority to transmit such application to the Town Attorney, Town Engineer and/or a qualified consultant for his/her/their review and recommendations. Furthermore, the Town Attorney, Town Engineer and/or a qualified consultant may be required to assist the designated approval authority in his, her or their obligations as prescribed by SEQRA. The cost of such assistance and review shall be at the expense of the applicant.

B. Type I actions adopted by the Town Board. In addition to the Type I actions prescribed in SEQRA, the following uses shall be classified as a Type I action pursuant to § 617.4 of SEQRA:

(1) Adult entertainment establishment.

(2) Junkyard.

(3) Planned unit development district.

ARTICLE XX
Special Use Permit

§ 350-173. General.

The Planning Board is hereby appointed by the Town Board as the designated approval authority as it pertains to denying or granting a special use permit as set forth in this article.

§ 350-174. Procedure.

The designated approval authority shall conform to the procedures prescribed in § 274-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time, as it pertains to its actions on an application for an appeal.

A. Integration of procedures. Whenever a particular application requires multiple review(s) and approval(s), the

designated approval authority shall integrate, to the extent practicable and consistent with any applicable law, his, her or their review and approval process.

§ 350-175. Application.

An applicant applying for a special use permit shall submit a complete application to the Code Enforcement Officer, along with any applicable fee and payment of incurred costs. Such application shall be in writing, on a form furnished by the Town for that purpose. At a minimum, such application shall contain all of the following:

A. The applicant's contact information and signed consent to the filing of this application.

B. A site plan that is prepared and sealed by a land surveyor or registered design professional.

C. Building plans and elevations, which shall be prepared and sealed by a registered design professional, illustrating proposed building construction and an indication of exterior materials and its colors.

D. A short or full EAF, if an environmental review is mandated by SEQRA.

E. Any other information deemed necessary by the designated approval authority to explain the nature of the special use, its potential environmental impacts under SEQRA, and its consistency with the standards established by this chapter.

§ 350-176. Determination criteria.

The designated approval authority shall review all facts and information that is the subject of an applicant for a special use permit to determine whether or not to approve such application. In doing so, the designated approval authority shall consider all of the following criteria:

A. The proposed use will be consistent with the land use goals and objectives prescribed in the Comprehensive Plan.

B. The proposed use is in compliance with the applicable standards prescribed in this chapter.

C. The proposed use will not overburden municipal services (e.g., fire protection, law enforcement, sanitary sewer, stormwater conveyance and water distribution and/or treatment systems, etc.).

D. The proposed use is in harmony with the orderly development of the applicable zoning district and will not have a significant adverse impact on the public health, safety or general welfare.

E. The proposed use shall not have an unmitigated significant adverse environmental impact as defined by SEQRA. Such determination shall be made by the designated lead agency as prescribed by SEQRA.

§ 350-177. Validity.

A. Where the use that was authorized by a special use permit has not commenced within one year of the date of such permit's issuance, such permit shall become null and void and all rights thereunder shall terminate. Exemption(s):

   (1) The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one year each. The extension shall be requested, in writing, by the owner and justifiable cause demonstrated.

B. Any use authorized by a special use permit shall not to be considered a nonconforming, permitted or prohibited use.

C. Any use authorized by a special use permit and such use ceases to continuously operate for a one-year period shall be considered abandoned, and such permit shall become null and void. Exemption(s):

(1) The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one year each. The extension shall be requested, in writing, by the owner and justifiable cause demonstrated.

§ 350-178. Conditions imposed upon a special use permit.

The designated approval authority may include in a special use permit such terms and conditions as he, she or they deem necessary or appropriate to ensure safety or to further the purposes and intent of this chapter.

§ 350-179. Expiration.

A special use permit shall not expire unless the use of land proposed in the application is not operated or completed within one calendar year from the date of issuance. The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one calendar year each. The extension shall be requested by the owner and justifiable cause demonstrated.

§ 350-180. Amendments.

An amendment to an approved special use permit shall be submitted to the Code Enforcement Officer accompanied by supporting information. The designated approval authority shall review the amendment and shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary. However, the following actions may be permitted by the Code Enforcement Officer without the need for a review by such authority:

A. De minimis revisions.

B. Revisions requested by an AHJ to ensure compliance with its applicable regulations and/or provision of law.

C. Revisions that comply with any applicable standard prescribed in this chapter.

§ 350-181. Transferable.

A special use permit is transferable due to the fact that such permit "runs with the land" since it applies to a use at a lot of record, which such use is not contingent on ownership.

§ 350-182. Revocation.

The designated approval authority is authorized to revoke a special use permit issued under the provisions of this article when it is found, by inspection or otherwise, that there has been a false statement or misrepresentation as to the material facts in the application or documents on which such certificate was based, including, but not limited to, any one of the following:

A. The Special use permit is used for a lot of record or use other than that for which it was issued.

B. Conditions and/or limitations set forth in the special use permit have been violated or not satisfied.

C. There have been any false statements or misrepresentations as to the material fact in the application for a special use permit or any attached documents.

D. The owner failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

E. The special use permit was issued in error or in violation of this chapter.

ARTICLE XXI
Stop-work order

§ 350-183. General.

Whenever the Code Enforcement Officer finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter, or in a dangerous or unsafe manner, the Code Enforcement Officer is authorized to issue a stop-work order.

§ 350-184. Issuance.

A stop-work order shall be in writing and shall be given to the owner of the lot of record, or to the owner's agent, or to the person doing the work. Upon issuance of a stop-work order, the cited work shall immediately cease. The stop-work order shall state the reason for the order, and the conditions under which the cited work is authorized to resume.

§ 350-185. Service of a stop-work order.

The Code Enforcement Officer shall cause a stop-work order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

§ 350-186. Imminent danger.

Where an imminent danger exists, the Code Enforcement Officer shall not be required to give a written notice prior to stopping the work.

§ 350-187. Unlawful continuance.

Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be culpable of a violation of this chapter.

ARTICLE XXII
Variance, Area

§ 350-188. General.

The Zoning Board of Appeals is hereby appointed by the Town Board as the designated approval authority as it pertains to denying or granting an area variance as set forth in this article.

§ 350-189. Procedure.

The designated approval authority shall conform to the procedures prescribed in § 267-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time, as it pertains to its actions on an application for an appeal.

A. Integration of procedures. Whenever a particular application requires multiple review(s) and approval(s), the designated approval authority shall integrate, to the extent practicable and consistent with any applicable law, his, her or their review and approval process.

§ 350-190. Application.

An applicant applying for an area variance shall submit a complete application to the Code Enforcement Officer, along with any applicable fee and payment of incurred costs. Such application shall be in writing, on a form furnished by the Town for that purpose. At a minimum, such application shall contain all of the following:

A. The applicant's contact information and signed consent to the filing of this application.

B. A detailed statement of need that will aid the designated approval authority in their review and comprehension of the application.

C. A detailed statement that explains the requested area variance(s) against the factors set forth in § 267-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

D. A site plan prepared and sealed by a land surveyor or registered design professional. Exemption(s):

(1) An existing survey, which is certified by a land surveyor or registered design professional, of the lot of record that is the subject of such variance can be substituted in lieu of a new site plan. (Note: Tax Maps maintained by the county are not legal instruments and cannot act as a substitute for legally recorded maps, surveys, or other documents.)

E. A short or full EAF, if an environmental review is mandated by SEQRA.

F. Any other information deemed necessary by the designated approval authority to explain the nature of the area variance, its potential environmental impacts under SEQRA, and its consistency with the standards established by this chapter.

§ 350-191. Validity.

A. Where any work that was authorized by an area variance has not commenced within one year of the date of such variance's issuance, such variance shall become null and void and all rights thereunder shall terminate. Exemption(s):

(1) The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time for periods not more than one year each. The extension shall be requested in writing by the owner and justifiable cause demonstrated.

B. Any land or structure authorized to be established or built pursuant to an area variance shall be deemed lawful at the zoning district in which it is located and shall not be considered an unlawful lot of record or structure.

§ 350-192. Conditions imposed upon an area variance.

The designated approval authority may include in an area variance such terms and conditions as he, she or they deem necessary or appropriate to ensure safety or to further the purposes and intent of this chapter.

§ 350-193. Expiration.

An area variance shall not expire unless the scope of the work proposed in the application is not operated or completed within one calendar year from the date of issuance. The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one calendar year each. The extension shall be requested by the owner and justifiable cause demonstrated.

§ 350-194. Transferable.

An area variance is transferable due to the fact that such variance "runs with the land" since it applies to a lot of record and/or structure, which such lot of record and/or structure is not contingent on ownership.

§ 350-195. Revocation.

The designated approval authority is authorized to revoke an area variance issued under the provisions of this article when it is found, by inspection or otherwise, that there has been a false statement or misrepresentation as to the material facts in the application or documents on which such variance was based, including, but not limited to, any one of the following:

A. The area variance is used for a lot of record and/or structure other than that for which it was issued.

B. The area variance is used for a lot of record and/or structure other than that listed in such variance.

C. Conditions and/or limitations set forth in the area variance have been violated or not satisfied.

D. There have been any false statements or misrepresentations as to the material fact in the application for an area variance or any attached documents.

E. The owner failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

F. The area variance was issued in error or in violation of this chapter.

ARTICLE XXIII
Variance, Use

§ 350-196. General.

The Zoning Board of Appeals is hereby appointed by the Town Board as the designated approval authority as it pertains to denying or granting a use variance as set forth in this article.

§ 350-197. Procedure.

The designated approval authority shall conform to the procedures prescribed in § 267-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time, as it pertains to its actions on an application for a use variance.

A. Integration of procedures. Whenever a particular application requires multiple review(s) and approval(s), the designated approval authority shall integrate, to the extent practicable and consistent with any applicable law, his, her or their review and approval process.

§ 350-198. Application.

An applicant applying for a use variance shall submit a complete application to the Code Enforcement Officer, along with any applicable fee and payment of incurred costs. Such application shall be in writing, on a form furnished by the Town for that purpose. At a minimum, such application shall contain all of the following:

A. The applicant's contact information and signed consent to the filing of this application.

B. Written testimony, which shall include competent evidence, that is prepared and attested by a qualified professional(s), that explains how the requested variance satisfies all of the factors set forth in § 267-b of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

C. A site plan that is prepared and sealed by a land surveyor or registered design professional.

D. A short or full EAF, if an environmental review is mandated by SEQRA.

E. Any other information deemed necessary by the designated approval authority to explain the nature of the use variance, its potential environmental impacts under SEQRA, and its consistency with the standards established by this chapter.

§ 350-199. Review by Town Attorney.

Upon receipt of a complete application from the applicant, the Code Enforcement Officer may transmit such application to the Town Attorney for his/her review and recommendations. The cost of such review shall be at the expense of the applicant.

§ 350-200. Validity.

A. Where a use that was authorized by a use variance has not commenced within one year of the date of such variance's issuance, such variance shall become null and void and all rights thereunder shall terminate. Exemption(s):

(1) The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time,

for periods not more than one year each. The extension shall be requested in writing by the owner and justifiable cause demonstrated.

B. Any use authorized by a use variance shall be deemed a permitted use in the zoning district in which it is located and shall not to be considered a nonconforming or prohibited use.

C. Any use authorized by a use variance and such use ceases to continuously operate for a one-year period shall be considered abandoned, and such variance shall become null and void. Exemption(s):

(1) The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one year each. The extension shall be requested in writing by the owner and justifiable cause demonstrated.

§ 350-201. Conditions imposed upon a use variance.

The designated approval authority may include in a use variance such terms and conditions as he, she or they deem necessary or appropriate to ensure safety or to further the purposes and intent of this chapter.

§ 350-202. Expiration.

A use variance shall not expire unless the use of land proposed in the application is not operated or completed within one calendar year from the date of issuance. The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than one calendar year each. The extension shall be requested by the owner and justifiable cause demonstrated.

§ 350-203. Transferable.

A use variance is transferable due to the fact that such variance "runs with the land" since it applies to a use, which such use is not contingent on ownership.

§ 350-204. Revocation.

The designated approval authority is authorized to revoke a use variance issued under the provisions of this article when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or documents on which such variance was based ,including, but not limited to, any one of the following:

A. The use variance is used for a use other than that for which it was issued.

B. The use variance is used for a lot of record other than that listed in such variance.

C. Conditions and/or limitations set forth in the use variance have been violated or not satisfied.

D. There have been any false statements or misrepresentations as to the material fact in the application for a use variance or any attached documents.

E. The owner failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

F. The use variance was issued in error or in violation of this chapter.

ARTICLE XXIV
Violations

§ 350-205. Violations unlawful.

It shall be unlawful for any land, structure and/or use to be in violation of this chapter, or fail in any manner to comply with any notice, directive or order of the Code Enforcement Officer.

§ 350-206. Public nuisance.

Any condition caused or permitted to exist in violation of any provision of this chapter shall be deemed a public nuisance and shall be abated as such by the owner pursuant to law.

§ 350-207. Notice of violation.

A notice of violation shall be in accordance with all of the following:

A. Be in writing.

B. Include a description of the real estate sufficient for identification.

C. Include a statement of the violation or violations and why the notice is being issued.

D. Include a correction order allowing a reasonable time to take the necessary actions to comply with this chapter.

E. Inform the owner of the right to appeal.

F. Include a statement of any applicable penalties and the right to file a lien in accordance with this chapter.

§ 350-208. Method of service.

A notice of violation shall be deemed to be properly served if a copy thereof is:

A. Delivered to the owner personally;

B. Sent by certified mail addressed to the owner at the last-known address with the return receipt requested; or

C. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

§ 350-209. Compliance with notices.

A notice of violation issued or served as provided by this article shall be complied with by the owner, operator, occupant and other person responsible for the condition or violation to which the notice of violation pertains.

§ 350-210. Voluntary compliance agreement.

The Code Enforcement Officer has the authority to enter into a written voluntary compliance agreement with the owner in order to gain voluntary compliance in correcting a confirmed violation. The agreement shall include time limits for compliance and shall be binding on the owner. The Code Enforcement Officer shall abate further processing of a violation during the time allowed in the voluntary compliance agreement for the completion of the necessary corrective action. The failure to comply with any term of the voluntary compliance agreement constitutes a separate violation and shall be handled in accordance with the procedures established by this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before the Code Enforcement Officer may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

§ 350-211. Abatement of unlawful acts.

An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter, or any term or condition of any notice of violation order or other notice or order issued by the Code Enforcement Officer pursuant to any provision

of this chapter. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board.

§ 350-212. Prosecution of a violation.

If the notice of violation is not complied within the period of time prescribed within such notice, the Code Enforcement Officer is authorized to request the Town Board to authorize the Town Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful structure and/or use in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

§ 350-213. Penalties for offenses.

A. Civil penalty. Any person who undertakes any action regulated by this chapter, or who violates, disobeys or disregards any provision of this chapter, shall be liable to the Town for civil penalty not to exceed $250 per day for every such violation. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

B. Criminal penalty. Any violation of any part of this chapter shall constitute a "violation" as defined in the Penal Law of NYS, as currently in effect and as hereafter amended from time to time, and shall be punishable by a fine not to exceed $250, or 15 days' imprisonment, or both such fine and/or imprisonment. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The criminal penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

C. Restoration. A court of competent jurisdiction may order or direct a violator to restore the affected land, sign and/or structure to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Code Enforcement Officer or his/her designate.

ARTICLE XXV
Miscellaneous

§ 350-214. Prior Zoning Law of the Town.

This law repeals, supersedes and replaces Chapter 140, Zoning, of the Code of the Town of Milo that was adopted on November 1, 1974, as well as its subsequent amendments.

§ 350-215. Relationship to other standards.

The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted local rules, regulations, statutes or ordinances, the most restrictive thereof, or those imposing the highest standards, shall govern. However, nothing contained herein shall be deemed to limit the right to farm as set forth in Article 25-AA of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

§ 350-216. Responsibility of owners.

~~An owner shall be responsible for compliance with this chapter regardless of any agreement between or among agents, lessors, operators, occupants or persons as to which party shall be responsible.~~

A. General. The owner is responsible for compliance with this chapter regardless of any agreement between or among agents, contractors, lessors, operators, occupants, registered design professionals or other person as to which party shall be responsible.

B. Accuracy of information. The owner is responsible for the accuracy of the information on documents submitted to the designated approval authority for its review and determination. Presentation of a misleading or knowingly false statement on such documents may result in criminal prosecution. This action is considered "Filing a false instrument," which is a violation of § 170.10, Forgery in the Second Degree, of the Penal Law of NYS, as currently in effect and as hereafter amended from time to time.

C. Transfer of real property.

(1) It is the responsibility of the buyer/purchaser of any real property to ascertain whether such property is compliant with applicable laws.

(2) The buyer/purchaser shall be responsible for compliance with any lawful certificate, covenant, notice, permit, order, restriction and/or any other written directive from an AHJ regardless of the date of issuance.

§ 350-217. Assistance to the Code Enforcement Officer and/or designated approval authority.

The Code Enforcement Officer and/or designated approval authority, as authorized by the Town Board, shall have the authority to obtain the assistance from any Town department, agency or employee as may be deemed necessary and appropriate under the circumstances. Furthermore, the Code Enforcement Officer and/or designated approval authority, as authorized by the Town Board, shall have the authority to obtain the assistance from qualified consultants as may be deemed necessary and appropriate under the circumstances. The owner shall pay any expense incurred by the Town as it pertains to such assistance.

§ 350-218. Private agreements.

This chapter is not intended to annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this chapter shall govern.

§ 350-218.1. Payment of fees and incurred expenses.

No permit or certificate issued pursuant to this chapter shall be issued until all applicable fees and administrative costs have been paid to this Town.

§ 350-218.2. Fees.

An application fee in the amounts set forth in a Fee Schedule established from time to time by resolution of the Town Board shall be submitted with the application.

§ 350-218.3. Administrative costs and professional fees.

A. In addition to the fees required in this section, the owner shall reimburse the Town for administrative costs and/or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) attributable to an application or the administration and/or enforcement of this chapter.

B. All administrative costs and/or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) incurred by the Town in the review and processing of the applications shall be charged back to the owner as a fee related to the application submitted.

C. The Town may also require the owner to deposit a lump sum to retain any professional service providers (including, but not limited to, engineers, attorneys and surveyors), consultants and/or third- party

agencies/inspectors the Town determines are necessary for its review of an application. If such sum is insufficient to fund the necessary consulting or inspection services, the Town may require additional deposits. Such payment(s) shall:

(1) Be deposited with the Town Clerk who shall establish a line item for this purpose. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation.

(2) Pay only for the expenditures rendered in connection with the project for which an application has been submitted by the owner.

(3) At the completion of the Town's review of a project, any excess amount in the line item attributable to the project shall be repaid to the owner. A final report of said line item shall be made available to the owner by the Town Clerk if requested.

D. In the event that the Town is required to refer for collection any outstanding administrative cost and/ or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) for any reimbursement, the owner shall, in addition to the reimbursements, be obligated to pay a reasonable attorneys' fee and costs incident to any action commenced by the Town to collect such fees. Reasonable attorneys' fees shall also include any disbursements that may result from the commencement of litigation. Any owner shall be deemed to be in default of their obligation of fee reimbursement for their failure to remit said reimbursements within 30 days of notice to pay.

E. The Town may assess penalties at the rate of approved by the Town Board for delinquent reimbursements.

§ 350-218.4. Refunds.

Any payment of a fee or administrative cost to the Town is not refundable regardless if a permit or certificate has been issued pursuant to this chapter.

§ 350-219. Assessment.

The failure of the owner to pay any fee, expense incurred by the Town and/or penalty in connection with the administration and enforcement of this chapter shall be assessed against the lot of record that is subject to any action prescribed in this chapter and shall be levied and collected in the same manner as provided in the Town Law of the NYS, as currently in effect and as hereafter amended from time to time, for the levy and collection of Town taxes or special ad valorem levies.

§ 350-220. Intermunicipal agreements.

The Town Board may, by resolution, authorize the Supervisor of the Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any applicable law.

ARTICLE XXVI
Severability, Interpretation and Effective Date

§ 350-221. Severability.

If any clause, sentence, paragraph, section or a part of this chapter shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or a part thereof directly involved in a controversy in which such judgment shall have been rendered.

§ 350-222. Interpretation.

A. General. This chapter shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect. Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

B. Figures. Figures are provided for convenience and reference only and do not define or limit the scope of any provision of this chapter. In case of any difference of meaning or implication between the text of this chapter and any figure, the text shall govern.

§ 350-223. When effective.

This Local Law shall be operative immediately and effective upon being filed with the NYS Secretary of State pursuant to § 27 of the Municipal Home Rule Law of the NYS, as currently in effect and as hereafter amended from time to time.