

**TOWN OF CANTON**

**LOCAL LAW NO. 1 OF THE YEAR 2024.**

**A Local Law amending the Town Zoning Law and other land use laws.**

**Be it enacted by the Town Board of the Town of Canton, in the County of St. Lawrence, as follows:**

**ARTICLE I. INTENT**

This Local Law shall be known as Local Law No. 1 of 2024 and shall amend the Zoning Law of the Town of Canton by repealing and replacing Chapter 70 of the Town of Canton Code, including associated Zoning Map and repealing Local Law No. 3 of 2019 regulating solar energy facilities and Local Law No. 1 of 2021 regulating battery energy storage systems.

**ARTICLE II. LEGISLATIVE ACTION**

- A. The Town Board of the Town of Canton, New York, hereby repeals Local Law No. 3 of 2019.
  - B. The Town Board of the Town of Canton, New York, hereby repeals Local Law No. 1 of 2021
  - C. The Town Board of the Town of Canton, New York, hereby repeals the Town of Canton Zoning Law Chapter 70 and associated Zoning Map and replaces it with the following text and associated Zoning Map:
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## **ARTICLE I: General Provisions**

### **§ 70-1. Title.**

The title of this Chapter is the "Zoning Law of the Town of Canton" and shall include this text and Zoning Map.

### **§ 70-2. Enacting Authority.**

This Chapter is enacted by the Town pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York and the Town Law of the State of New York.

### **§ 70-3. Enactment.**

This Chapter shall take effect on the date the Secretary of State files the Town of Canton Local Law repealing former Chapter 70.

### **§ 70-4. Purpose.**

The Objectives of this Zoning Law are to:

- A. Support the goals and objectives of the Town Comprehensive Plan and other adopted planning and community development initiatives.
- B. Protect the open and natural character of the land.
- C. Provide for planned growth of agricultural, residential, community services, commercial and industrial use of the land consistent with the economic and social needs of the community and its development policies.
- D. Preserve the Town's natural resources and habitats and encourage the use of renewable energy systems.
- E. Promote the health, safety and general welfare of the Town consistent with the objectives of New York State Town Law § 261 through 265 and Article 2, 10 of the General Municipal Rule Law.

### **§ 70-5. Conflict with other laws.**

- A. Whenever the requirements of this Chapter are at variance with the requirements of any lawfully adopted rules, regulations, or ordinances, such as the New York State Uniform Fire Prevention and Building Code and New York State Energy Conservation Construction Code, the most restrictive or those imposing the highest standards shall govern.

- B. All applicants should review the current New York State Uniform Fire Prevention and Building Code and New York State Energy Conservation Construction Code, for regulations applicable to their project.
- C. The most recently adopted New York State Rules & Regulations shall supersede.

**§ 70-6. Severability.**

If any provision of this Chapter or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this Chapter and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

**§ 70-7. Exemption of agricultural activities located in a State Agricultural District.**

Agricultural activities as defined in Agriculture and Markets Law 25-AA, §301(11) and located in a State Agricultural District as defined in the Agriculture and Markets Law 25-AA shall be exempt from the standards of this Chapter except as otherwise required.

**§ 70-8. Noncomplying structures or uses.**

Any building or structure erected, or any use conducted without a Zoning Permit or Certificate of Compliance, where required, or not in conformity with the provisions of this Chapter may be removed, closed, or halted at once by the Code Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town officer or employee.

**§ 70-9. Fees.**

Application and permit fees shall be collected and paid to the Town Clerk according to the fee structure in effect at the time of application. The present fee schedule is posted at the Town Clerk's Office.

**§ 70-10. Delegation of authority.**

Whenever a provision of this Chapter refers to the Code Enforcement Officer, Supervisor, Director of Economic Development or Planning, or any other officer of a department of the Town, the provision shall be construed to authorize such official to designate, delegate, and authorize other persons to undertake and to provide for the enforcement and administration of such functions.

**ARTICLE II: Permits, Approvals and Reviews**

## **§ 70-11. Zoning Permit required**

- A. No use or structure shall be established, changed or erected on land developed until a Zoning Permit has been issued by the Code Enforcement Officer, who shall issue such permits in accordance with regulations in this Chapter.
- B. A change of use is the initiation of a use that is in a different use category, as listed in Schedule A of this Chapter, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use.

## **§ 70-12. Violations and unpaid fines, bills, and taxes.**

- A. No application pursuant to this Chapter shall be processed if there is a violation of the Municipal Code of the Town of Canton on the lot or building that is the subject of the application, until the violation is abated, unless the application is necessary to abate the violation.
- B. No application under this Chapter shall be processed without proof that all taxes and fines related to violations of the Town Code and all other fees payable to the Town from the applicant or the owners are paid in full.

## **§ 70-13. Types of approvals.**

**ZONING PERMIT:** Any change of use, building erection, relocation, or alteration of outside dimensions, or excavation for any building shall require a Zoning Permit as provided in § 70-117.

**BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE:** The issuing, posting, and expiration of Building Permits and the issuance of Certificates of Occupancy or Compliance will be done according to Chapter 23 of the Town Code.

**SITE PLAN APPROVALS:** Site Plan Review and approval shall be required for all proposed uses except agriculture, single- and two-family dwellings and their accessory uses other than minor home occupation, and other ordinary or minor improvements or maintenance as stated in §70-101. The Site Plan Review and approval process is provided in Article IX.

**SPECIAL USE PERMITS:** A Special Use Permit approved by the Planning Board shall be required for any change of use from a use that does not require a Special Use Permit to a use that does require a Special Use Permit. All Special Use Permit applications shall be subject to the Special Use Permit provisions of Article X and may be subject to the Site Plan Review provisions of Article IX.

**SIGN PERMIT:** All signage, except as provided in §70-87, shall require an approved permit from the Planning Board.

VARIANCES: An area or use variance shall be required for all proposed activities that propose to vary from the requirements of this Chapter and shall be subject to the provisions of Article XIII.

PLANNED DEVELOPMENT DISTRICTS: All Planned Development District applications shall be subject to the provisions of Article VIII.

**§ 70-14. Professional assistance for permit review.**

The Planning Board may, at its discretion, engage the services of planning, engineering, legal, environmental, or other professional consultants, with the prior approval of the landowner/lease holder and expense of the applicant, for the review of applications involving significant issues beyond the scope or complexity of normal review. The Planning Board may require costs to be paid in advance into an escrow account to be held and managed by the Town and may deny an application upon failure of the applicant to make such payment in a timely manner. The Town Attorney, in consultation with the Supervisor, shall establish the terms of the account in consultation with the Planning Board.

**§ 70-15. Performance bond.**

To ensure the completion of required public infrastructure and other improvements, such as but not limited to roads, stormwater infrastructure, landscaping, lighting, signage, trails, parks, or other improvements required by the Planning Board, the Planning Board, may require, as a condition of approval, a performance bond or other security in such form and from a source acceptable to the Town Board in an amount sufficient to cover the estimated cost of completion of the improvements. Such bond or other acceptable form of security shall comply with the requirements of §274-a of NYS Town Law relating to performance bonds and other securities.

**§ 70-16. Public hearings and meeting notification process.**

- A. All notices of public hearings and meetings shall be posted and published in accordance with the NYS Public Officers Law Article 7, Open Meetings Law §104.)
- B. Notifications of public hearings related to Site Plan Review, Special Use Permits, Variances and Appeals shall be conducted in the following manner:
  - 1. A notice of the public hearing shall be sent to the applicant.
  - 2. The Planning Board or Zoning Board of Appeals shall send a notice of such public hearing by standard U.S. mail to all property owners within 100 feet of the property affected by the proposed application, including properties on the opposite side of the street or highway.
  - 3. Such public hearing shall be advertised in the Town's official newspaper or, if there is none, in a newspaper of general circulation in the Town and shall contain sufficient information so as to identify the property involved and the nature of the proposed action. Such notice shall be published at least ten (10) days before the public hearing for an application involving Site Plan Review and Special Use Permit, or at least (5) calendar days before

the public hearing for an application involving an appeal to the Zoning Board of Appeals.

4. If the land involved in an application is within 500 feet of the boundary of any other municipality, a notice of the public hearing shall be provided to the municipal clerk of such other municipality as required by NYS General Municipal Law § 239-nn.

#### **§ 70-17. Compliance with the New York State Environmental Quality Review Act.**

The Town shall comply with the provisions of the NYS Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the NYS Codes, Rules and Regulations.

#### **§ 70-18. Referral of Actions to County Planning Board.**

##### **A. Required referrals.**

1. The Zoning Enabling Laws, under General Municipal Law §239m, require that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local board. Any proposal for a Special Use Permit, variance, Site Plan approval, change in the Zoning Law text or Map (rezoning, amending the Zoning Law) which would affect real property lying within a distance of 500 feet from the boundary of:
  - a. Any town.
  - b. Any village.
  - c. Any existing or proposed county or state park.
  - d. Any right-of-way of any county or state road.
  - e. Any stream or drainage channel owned by the county or the state.
  - f. Any existing or proposed county or state-owned land on which a public building or institution is situated.
  - g. The Boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law.
2. These actions must be referred to the County Planning Board, which shall have thirty (30) days from the date of County receipt of a full statement to take action on the matter. By mutual agreement of the County and the municipality, such a thirty (30) day period may be extended.

##### **B. Effect of review.**

1. If the County approves a referral, then the Planning Board or Zoning Board of Appeal's or other local board's decision is governed by a majority vote.
2. If the County disapproves or approves subject to stated conditions or modifications, the local board shall not act contrary to the County except by a majority plus one vote.

- C. Final decision of local board. The local board must send a copy of its final decision and reasons for such decision on a county referral case to the County Planning Board within thirty (30) days after final action by the local board.

**§ 70-19. Agricultural Data Statement.**

- A. Per § 305-a of the New York State Agriculture and Markets Law, an Agricultural Data Statement must be completed for any application for a Special Use Permit, Site Plan approval, Use Variance or Subdivision approval that is proposed to occur on property within 500 feet of a farm operation located in a NYS Agriculture and Markets certified Agricultural District and provided to such property owners and to the St. Lawrence County Planning Board.
- B. The Town Board, Planning Board, or Zoning Board of Appeals shall evaluate and consider the Agricultural Data Statement in its review of the possible impacts of the proposed project upon the functioning farm operations within such agricultural district. the information required by an Agricultural Data Statement may be included as part of any other application form required by local law, ordinance or regulation.
- C. Agricultural Data Statement; notice provision. Upon the receipt of an application as described in Section A above by the Planning Board, Zoning Board of Appeals, or Town Board, such board shall mail written notices of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation of the said project. The cost of mailing said notice shall be borne by the applicant.
- D. Agricultural Data Statement; content. An Agricultural Data Statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the proposed project relative to the farm operations identified in the agricultural data statement.

**§ 70-20 through § 70-22. Reserved.**

## **ARTICLE III: Establishment and Designation of Districts**

### **§ 70-23. Establishment of Districts.**

- A. For the purpose of promoting the public health, safety and general welfare of the Town of Canton, the Town is hereby divided into the following zones:

OPEN SPACE–RECREATION (O-R): The purpose of this district is to recognize the area designated by New York State Department of Environmental Conservation as a Wildlife Management Area and other conserved natural areas and open spaces; and community parks and recreation amenities.

RURAL (R): The purpose of this district is to support agriculture, rural and open land areas, and activities and to provide for compatible growth that maintains rural character.

RESIDENTIAL-AGRICULTURAL (RA): The purpose of this district is to protect and enhance compatible agriculture and residential uses, while providing for orderly residential growth and development in the Town.

HAMLET (H): The purpose of this district is to support the hamlet communities of Pyrites and Morley where a mix of residences, small businesses and community and cultural uses exist in harmony on traditionally smaller scale lots.

MIXED-USE (MU): The purpose of this district is to promote a mix of compatible residential, commercial and community service uses along larger transportation corridors, and in close proximity to the Village of Canton.

COMMERCIAL (C): The purpose of this district is to delineate areas appropriate for general commercial uses along the Town's most prominent transportation corridors.

PLANNED UNIT DEVELOPMENT (PUD): The purpose of this district is to delineate existing PUDs established prior to the most recent amendment of this Chapter.

- B. Overlay Districts.

The purpose of overlay districts is to protect important resources and community characteristics within a specific geographical area of the Town. Overlay districts do not change the use and dimensional requirements of the underlying land use districts unless specifically so stated. They do impose specific requirements that must be followed. The following overlay district is established:

WATERCOURSE PROTECTION OVERLAY (WP-O): The purpose of this overlay district is to provide some protection of the Town's larger watercourses from development activities and encroachment and support those activities occurring in harmony with, and protection of, their environmental and ecological systems. C. Planned Development Districts.



The purpose of the Planned Development District (PDD) is to delineate areas of the Town that may be appropriate for a specific project or development where creative planning and design would be necessary. PDDs allow development matched to the unique characteristics of the site and allow innovative development techniques that might not otherwise be possible through strict application of standard use, area, bulk, and density specifications.

**§ 70-24. Establishment of the Zoning Map.**

The areas and boundaries of the zoning districts are established to scale as shown on the map entitled "Town of Canton Zoning Map," adopted and certified by the Town Clerk and herein referred to as the "Zoning Map." This Zoning Map, together with everything shown thereon, is hereby adopted and declared to be a part of this Chapter, the Town of Canton Zoning Law.

**§ 70-25. Designation of boundaries; determination of location.**

- A. C-Commercial district boundary. Where the C-Commercial district boundary does not follow the rear lot line of a parcel adjoining US Route 11, the boundary of the C-Commercial district on such parcel shall be construed to extend 1500 feet as measured in a perpendicular line from the center line of US Route 11.
- B. Where uncertainty exists with respect to the boundaries of any zones as shown on the Zoning Map, the following rules shall apply:
  - 1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, lakes, reservoirs, or other bodies of water shall be construed to follow such center lines.
  - 2. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.
  - 3. In all cases where a district boundary line is located no farther than fifteen (15) feet away from a lot line of record, such boundary shall be construed to coincide with such lot line.
  - 4. Where a district boundary line divides a lot in single ownership at the time of adoption of this Chapter, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
  - 5. In other circumstances not covered by the rules above, the Code Enforcement Officer shall interpret the district boundaries and this determination may be appealed to the Zoning Board of Appeals pursuant to Article XIII.

**§ 70-26. Reserved.**

## ARTICLE IV: District Regulations

### § 70-27. Permitted uses, general applicability.

#### A. General applicability.

No structure or land shall be used for any use except as permitted in Schedule A: Permitted Uses of this Section and the Watercourse Protection Overlay District as provided in Article V. See Article XV for definitions of each use category.

#### B. Permitted uses by right.

All principal and accessory uses listed in Schedule A shall be permitted by right in the zoning district where the use is listed as permitted, provided that all other requirements of this Chapter are met including Site Plan Review as may be required. All such permitted uses are indicated in Schedule A with a "P."

#### C. Permitted uses with a Special Use Permit.

Uses requiring a Special Use Permit shall be permitted upon issuance of a Special Use Permit by the Planning Board. All use requiring a Special Use Permit are indicated in Schedule A with an "SU." D. Prohibited uses.

Any use not listed in Schedule A: Permitted Uses of this Chapter as a principal or accessory permitted use is deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere in this Chapter or a Use Variance is granted in accordance with the provisions of this Chapter.

#### E. Additional requirements of certain uses.

This Chapter includes additional requirements for certain uses which are referenced in the "Additional Standards" column of Schedule A and provided in Article VI, Additional Standards for Specific Uses. Notwithstanding the provisions of this Article, all other lot development standards and supplemental regulations shall be met and are considered part of the definition of what is permitted as of right or with a Special Use Permit.

#### F. Mixed use buildings and lots.

The mixing of compatible uses on a lot or within a building is supported and permitted. Any requirement in this Chapter applying to a use individually, must still be met.

**CHAPTER 70 SCHEDULE A: PERMITTED USES**

**P** = Permitted as of right, with or without Site Plan Review      **SU**= Requires a Special Use Permit

**Blank** = Prohibited in that District

USE CATEGORY	Zoning District						Additional Standards
	OS/R	R	RA	H	MU	C	
<b>RESIDENTIAL USES</b>							
Dwelling, group					P		
Dwelling, single-family		P	P	P	P	P	
Dwelling, multi-family			SU	P	P		§70-65
Dwelling, two-family		SU	P	P	P		
Dwelling, conversion of an existing dwelling into a multifamily dwelling		P	SU	P	P	P	
Manufactured home park		SU		SU	SU		§70-61
Residence, community (group home)		P	P	P	P		
Residential care facility		SU	SU		P		
Senior Housing			P		P		
Townhouse			SU		SU		
<b>COMMUNITY SERVICE AND INSTITUTIONAL USES</b>							
Cemetery		SU	SU	SU	SU	SU	
Clinic				P	P	P	
Club/lodge, membership except as otherwise listed				P	P	P	
College/university		SU			P	P	
Community center			SU	P	P	P	
Cultural facility			SU	P	P	P	
Day care, adult (day treatment facility)				P	P	P	
Day care center		SU		P	P	P	
Day care, family/group family home		P	P	P	P	P	
Hospital/medical center					P	P	
Municipal/government facility/Essential services		P	P	P	P	P	
Open space, natural area, wildlife refuge	P	P	P	P	P	P	
Park, playground and recreation facility, public	P	P	P	P	P	P	
Public utility, major, not otherwise listed		SU	SU	SU	SU	SU	
Public utility, minor		P	P	P	P	P	
Religious institution		P	P	P	P	P	
School		SU	SU	SU	P	P	
School, vocational/trade		SU			P	P	

Wireless telecommunication tower		SU				SU	§70-75
<b>ALL OTHER NONRESIDENTIAL USES</b>							
Adult Uses						SU	§70-48
Agriculture (see also “accessory uses”)		P	P	P	P	P	
Agricultural equipment, sales, service, and repair		P			P	P	
Animal day care		P			P	P	
Animal shelter		SU				SU	§70-59
Artist studio		P	P	P	P	P	
Aviation landing field / airport		SU					
Bar/tavern/brew Pub				P	P	P	
Battery energy storage system, tier 2		P	SU			P	§70-51
Bed and breakfast		P	P	P	P	P	
Brewery, micro, micro-distillery, cidery		SU	SU		P	P	§70-62
Broadcasting facility, radio, or television	SU					P	
Campground including recreational vehicle park		SU	SU	SU			§70-52
Car wash						P	§70-53
Contracting business without a construction yard		P				SU	P

**CHAPTER 70 SCHEDULE A: PERMITTED USES**

**P** = Permitted as of right, with or without Site Plan Review      **SU**= Requires a Special Use Permit  
**Blank** = Prohibited in that District

USE CATEGORY	Zoning District						Additional Standards
	OS/R	R	RA	H	MU	C	
Contracting business with a construction yard		P				P	§70-54
Drive through facility or window						P	§70-55
Electric vehicle infrastructure as a principal use		SU			P	P	
Entertainment and recreation, indoor, commercial or private					P	P	
Entertainment and Recreation, outdoor, commercial or private not otherwise listed in Schedule A		SU			P	P	
Event/reception facilities (see also accessory uses)					P	P	
Extraction (mining), commercial		SU					
Gasoline service station, with or without a market						P	§70-56
Hotel/Inn/Motel					P	P	
Industry, craft/artisan		P		P*	P	P	
Junk yard		SU				SU	§70-58
Kennel, boarding or breeding		SU				SU	§70-59
Manufacturing/Industry, light or heavy						P	

Methane (anaerobic) digester accessory to agriculture		P					
Micro-brewery, micro-distillery, cidery		SU			P	P	§70-62
Motorized vehicular repair, major		SU				P	§70-64
Motorized vehicular repair, minor		P			P	P	§70-64
Motorized vehicle sales, lease, rental						P	
Office, professional or general (see home-based business)				P*	P	P	
Open air market			P	P	P	P	
Racetracks, motor sport, nonpublic							
Recyclable Handling and Recovery Facility/Transfer facility						P	§70-73
Research and laboratory facility					P	P	
Restaurant				P*	P	P	
Retail/Service establishments not otherwise listed in this Schedule A				P*	P	P	
Sawmill and wood processing		SU				P	
Self-storage unit facility, mini		SU				P	§70-63
Shopping center						P	
Slaughterhouse		SU					
Solar energy system, large-scale		SU					§70-72 E
Solar energy system, medium-scale		P	P			P	§70-72 D
Sportsman's club/outdoor shooting range		P					
Veterinary clinic, animal hospital		SU				SU	
Warehouse and wholesale distribution, enclosed						P	

<b>ACCESSORY USES</b>							
Agriculture, personal accessory	P	P	P	P	P	P	§70-49
Agriculture, temporary workforce housing	P	P					
Agri-tourism accessory to principal agricultural use	P	P	P	P	P		
Alternative energy generating equipment or facility not otherwise listed in Schedule A as an accessory use	P	P	P	P	P	P	
Amateur Radio Tower		P	P	P	P	P	
Battery energy storage system, tier 1	P	P	P	P	P	P	§70-51
Battery energy storage system, tier 2		P	SU			P	§70-51
Customary accessory structure or use	P	P	P	P	P	P	§70-34
Drive-through service facility						P	§70-55
Dwelling unit, accessory		P	P	P	P	P	
Electric Vehicle Charging Station, accessory	P	P	P	P	P	P	

**CHAPTER 70 SCHEDULE A: PERMITTED USES**

**P** = Permitted as of right, with or without Site Plan Review

**SU**= Requires a Special Use Permit

**Blank = Prohibited in that District**

USE CATEGORY	Zoning District						Additional Standards
	OS/R	R	RA	H	MU	C	
Event facilities, accessory to agriculture		P			P	P	
Greenhouse, accessory to a non-agricultural use		P	P	P	P	P	
Home occupation, major		SU	SU	SU	P	P	§70-57
Home occupation, minor		P	P	P	P	P	§70-57
Outdoor wood boiler		P	P	P	P		§70-67
Recycling collection, accessory				P	P	P	
Roadside/farm stands	P	P	P	P	P	P	§70-71
Solar energy system, small scale	P	P	P	P	P	P	§70-72 C
Solar energy system, medium scale, accessory		P	P		P	P	§70-72 D
Storage, outdoor, accessory to a commercial use, except for agricultural use		SU			P	P	§70-66
Wind Energy Conversion System, Small	P	P	P		P	P	§70-74

**§70-28. Accessory uses.**

- A. Uses listed in Schedule A under the category “Accessory Uses” are permitted where the use is listed as permitted but shall be subordinate or incidental to a permitted principal use listed in Schedule A.
- B. In the OS-R, R or RA districts, permitted accessory uses shall only be those listed under the category “Accessory Uses” in Schedule A and shall meet the requirements of §70-34 and other provisions of this Chapter.
- C. In the MU, H and C Districts all uses listed as “Principal Uses” in Schedule A may be an accessory use to another principally permitted use.
- D. Truck bodies, trailers, buses, campers etc. shall not be used as accessory buildings or structures.

**§ 70-29. Existing undersized lots of record.**

- A. Any recorded lot held in ownership prior to the adoption of this Chapter and whose area and/or width and/or depth are less than the minimum requirements specified herein for the zone may be considered as complying with this Chapter, and no Area Variance therefor shall be required, provided that:
  - 1. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lot is equal to or greater than the minimum lot area required for that zone.
  - 2. The minimum yard requirements set by this Chapter are met.
- B. In the R, RA, MU and H zoning district, such undersized nonconforming lots may be used for not more than one (1) single-family dwelling.
- C. A lot of nonconforming size may be divided if each and every division of such lot is purchased by the owner or owners of adjoining properties to increase the size of said owner's property.

**§ 70-30. Clustered Subdivisions (Conservation Design).**

- A. Purpose. A clustered or conservation designed subdivision allows design flexibility, with the goal of preserving important natural attributes of the land or community resources while ensuring that development occurs on the land that is best suited for development and that environmental resources are protected. B. Applicability.
  - 1. As part of a “Major Subdivision” as defined in this Chapter and in Chapter 56 Subdivision of Land, the Planning Board may approve a clustered subdivision that will create a more compact arrangement of lots and streets that conserves at least forty percent (40%) of the land for the purposes of preserving open space and forests, sensitive environmental areas including wildlife corridors, viewsheds or agricultural lands; or establishes public recreation areas or corridors.



2. The lot development requirements of Schedule B related to lot size and lot width may be reduced at the discretion of the Planning Board as part of a Major Subdivision approval if the requirements of this §7030. and all other regulations governing Subdivisions are met and approved by the Planning Board.

D. Density Calculation

1. A cluster development shall result in a permitted number of building lots or dwelling units which shall in not exceed the number which could be permitted, in the Planning Board's judgement, if the land were subdivided into buildable lots conforming to the minimum lot size and density requirements of Article IV, Schedule B, Lot Dimensional Standards and conforming to all other applicable requirements.
2. Lands constrained by natural features such as steep slopes (fifteen percent (15%) slopes which are 2,000 square feet or more of contiguous sloped areas), one hundred year floodplains and wetlands shall be considered unbuildable and shall not be included as part of buildable lots in the density calculation.
3. A fifteen-percent (15%) development-loss factor shall be applied to the "buildable land" to take into account loss of developable area to roadways, stormwater areas, and drainage or utility easements.
4. The residential density shall equal the developable area divided by the permitted number of acres per unit (the minimum lot size) for each zoning district. All fractional units shall be rounded down.
5. Stormwater management facilities, septic systems and wells may be included as part of the conserved open space provided that necessary easements are provided for maintenance of these facilities.

E. Density Bonus. Applicants wishing to conserve greater than 40% open space may receive additional density on the site, as follows:

1. Additional 20% density allowed if public access is provided to the protected open space or public access is provided through an easement or land donation dedicated to creating a trail or multi-use path that connects to other recreational amenities or is a proposed linkage in Town Plans.
2. Additional 10% density allowed for every 10% of additional open space protected on the parcel.
3. The maximum additional density bonus shall be capped at 40% above the density otherwise allowed.

F. Conditions for establishing permanent open space

1. Land set aside in a clustered subdivision shall be permanently preserved by a conservation easement in the manner described below.
  - a. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture,

forestry, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to §247 of the General Municipal Law and/or §§49-0301 through 49-0311 of the Environmental Conservation Law, may be deed restricted, transferred to a qualified non-profit organization acceptable to the Planning Board, owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The conservation easement shall be recorded in the St. Lawrence County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's Office. The Town shall maintain a current map which displays all lands under easement or deed restricted.

- b. The conservation easement shall limit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation). Access roads, driveways, wells, local utility distribution lines, underground sewage disposal facilities, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.

- 2. Developed lands shall not impact the conservation value of the permanent open space.

**§ 70-31. Lot dimensional standards for new lots and lot adjustments.**

- A. No lot shall be created or developed except as provided in this Section, Schedule B: Lot Dimensional Standards and as may be required in Chapter 56 Subdivision of Land of the Town of Canton Code.

**Chapter 70 Schedule B: Lot Dimensional Requirements**

Zoning District	Minimum Lot Size <sup>1</sup>	Minimum Lot Frontage	Minimum Setbacks			Height Maximum/Minimum	Maximum Impervious Surface
			Front Yard <sup>2</sup>	Side Yards	Rear Yard		
<b>Open Space (OS)</b>	None	200 ft.	75 ft. minimum	40 ft. each side	50 ft.	35 ft. maximum	30%
<b>Rural (R)</b>	2 acres	200 ft.	75 ft. minimum	25 ft. each side	50 ft.	35 ft. maximum	30%
<b>Residential/Agriculture (RA)</b>	1 acre	200 ft.	75 ft. minimum	50 ft. total of both sides; 20 ft. minimum one side	30 ft.	35 ft. maximum	30%
<b>Hamlet (H)</b>	20,000 square feet	60 ft.	40 ft. minimum	25 ft. total both sides; 10 ft. minimum one side	20 ft.	35 ft. maximum	50%
<b>Mixed Use (MU)</b>	1 acre <sup>3</sup>	150 ft. <sup>3</sup>	75 ft. minimum	50 ft. total of both sides; 20 ft. minimum one side	30 ft.	40 ft. maximum	50%

<b>Commercial (C)</b>	None	None	100 ft.	50 ft. total both sides; 20 ft. each side	30 ft.	40 ft. maximum	50%
<b>Watercourse Protection Overlay (WP-O)</b>	Within the boundary of the WP-O, no new structures shall be constructed within 50 feet of the ordinary high-water mark of the watercourse, with some exceptions as provided in §70-42.						
<b>Planned Development Districts (PDD)</b>	See Article VIII for PDD requirements.						

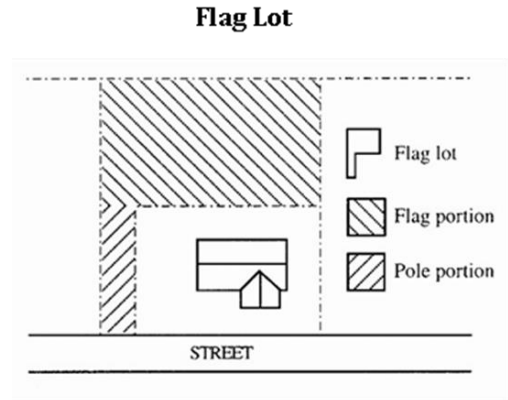
<sup>1</sup> See Article VI, Additions on Regulations of Specific Uses, for minimum lot size requirements for certain uses and activities.

<sup>2</sup> Front yard setbacks shall be measured from the centerline of the street. The minimum front yard setback requirement may be adjusted to reflect the average of the setbacks of adjacent lots if such lots are improved with principal structures.

<sup>3</sup> Lots and lot frontage minimum requirement may be reduced by 50% if the lot is served by a public/community water or sewer system.

B. Flag Lot exceptions.

1. Flag lots shall be permitted only for tracts of land with limited street frontage at the time of adoption of this Chapter, but with sufficient area for additional lots.
2. Flag lots shall not be permitted in a subdivision where a street could reasonably be developed to serve the lots with each meeting the minimum lot width requirement.



3. Minimum Lot Size Calculation.

The “flag” portion (buildable portion) of a flag lot as defined in Article XV Definitions of this Chapter, shall meet the minimum lot size required for the zone in which it is located. The “pole” portion of the flag lot shall be excluded from the minimum lot size calculation.

4. Front Yard Setback and Screening.

- a. The minimum front yard setback for the “flag” portion (buildable portion) of a flag lot shall be fifty (50) feet as measure from the front property line of the “flag” portion of the lot. The purpose of this is to ensure that there is an appropriate setback (buffer) between structures on a flag lot and the lot in front of the flag lot.
- b. There shall be a vegetative screening in the front yard of the “flag” portion of the lot to minimize the visual impact of the flag lot building on the front lot. If such screening does not exist naturally, a vegetative screening shall be installed prior to receiving a Certificate of Occupancy for a newly constructed principal building.

5. “Pole” Standards.

- a. The “pole” portion of a flag lot shall have width of at least sixty (60) contiguous feet of lot frontage to ensure that there is adequate width to accommodate emergency vehicles.
- b. Driveway travel lanes shall be at least sixteen (16) feet wide and shall have an unobstructed clearance height of thirteen point six (13.6) feet.

**§ 70-32. Lot development standards for principal buildings.**

A. Regulations governing lot size and lot width; front, side, and rear yard setback requirements; height and maximum allowable impervious surfaces for principal use development in each district and overlay are specified in Schedule B: Lot Dimensional Standards and are supplemented by the regulations in this Article and other Sections of this Chapter.

1. Measuring front yard setbacks. Front yard setbacks shall be measured from the centerline of the street. The minimum front yard setback requirement may be adjusted to reflect the average of the setbacks of adjacent lots if such lots are improved with principal structures.

B. Lots connecting to community water or sewer systems.

The minimum lot size and lot frontage minimum requirement for a lot as provided in Schedule B may be reduced by fifty percent (50%) if the lot is served by a public/community water or sewer system.

C. Front yard setback exceptions.

The required front yard setback minimum and/or maximum for a vacant lot may be adjusted to the average of the front yard setbacks of the adjacent improved lots.

D. Any construction physically attached to a principal building, including attached by means of a breezeway or a roofed passageway with open or latticed sides, is deemed to be part of such principal building in applying regulations. E. Side yards.

Side yards may be varied where the side wall of a building is not parallel to the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any one point than one-half ( $\frac{1}{2}$ ) the otherwise required minimum width.

F. Corner lots.

On corner lots, the sides facing both streets shall be considered front yards and shall meet the required front yard setbacks. Of the other sides, one shall be considered the rear yard and the other the side yard, at the owner's option.

G. Maximum building height exceptions.

1. Silos and other buildings related to agriculture are exempt from the height restrictions of this Chapter.
2. Roof-level features such as spires, belfries, cupolas, or domes not used for human habitation, chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, green or blue roof systems, water tanks or necessary

mechanical appurtenances usually located on the roof level shall be excluded from calculating height.

3. Flag poles, transmission towers and cables, radio and television antennas or towers and similar structures shall also be excluded from the height limitations of this Chapter. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.
4. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank, or other structure that extends above the height limitations.

**§ 70-33. Residential buildings per lot.**

- A maximum of two principal dwellings may be permitted on a single lot if the lot area, lot width and setback requirements of this Chapter are met for each dwelling, with the exception of residential care facilities, community residences, senior housing developments and approved alternative housing arrangements of an approved PDD.

**§ 70-34. Development standards for Accessory buildings and structures.**

- A. Location. Accessory structures and uses exceeding 100 square feet associated with a residential use which are not attached to a principal building may be erected in accordance with the following requirements except as otherwise provided in this Section:

1. Front yard: Shall not be located in the front yard unless located at least 100 feet from the front property line.
2. Rear and side yard: ten (10) feet from side or rear property line.
3. Side yard: street side of corner lot, same as for a principal building.
4. Not closer to a principal or other accessory building than ten (10) feet.

- B Non-residential accessory structures. Nonresidential accessory structures shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than ten (10) feet.

- C When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements for this Chapter applicable to the principal building.

- D Height.

1. Accessory buildings in the RA, H, and MU district shall be twenty-six (26) feet.

2. Accessory buildings in the R and C districts are as allowed for a principal structure in the district.

E Off-street parking shall meet the parking location standards of §70-84.F.

F Fences, hedges, and walls shall meet the requirements of §70-81.

G Signage shall meet the setback requirements of §70-87.

**§ 70-35. Visibility at Intersections.**

On a corner lot, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained within the triangular area formed by the intersection street lines and a straight line joining said street lines at points which are at a twenty (20)-foot distance from the point of intersection, measured along said street lines. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

**§ 70-36. Projections in required yards.**

A. The space in any required yard shall be open and unobstructed except for accessory buildings in a side or rear yard and except for the ordinary projections of windowsills, cornices, and eaves; provided, however, that such features shall not project more than four (4) feet into any required yard.

B. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure.

C. In determining the percentage of impervious surface or the size of yards for the purpose of this Chapter, enclosed porches open at the side, but roofed, shall be considered a part of the building.

D. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.

E. Ramps for access by handicapped persons are exempt from projection regulations.

**§ 70-37 through § 70-39. Reserved.**



## **Article V: Watercourse Protection Overlay District**

### **§ 70-40. Purpose.**

The purpose of the Watercourse Protection Overlay (WP-O) district is to:

- A. Ensure that development and land or water use activities occur in harmony with the environmental and ecological systems of the Grasse River, Oswegatchie River, Little River and Harrison Creek.
- B. Preserve, to the maximum extent practicable, the existing vegetation and natural features and to provide some protection to watercourses and wetlands from human activity and other encroachment associated with certain land use activities and development.
- C. Safeguard persons, protect property, and preserve the natural environment by managing stormwater runoff rates and volumes; preventing soil erosion, siltation, and stream channel erosion; managing non-point source pollution associated with stormwater runoff.
- D. Promote the maintenance and/or extension of public access to the waterways in a manner that is compatible with the primary purpose of a proposed development or activity.
- E. Support appropriate and safe water surface use on waterways.

### **§ 70-41. Applicability.**

- A. This Watercourse Protection Overlay is established along the Grasse River, Oswegatchie River, Little River and Harrison Creek from the mean highwater mark to 500 feet horizontal from the nearest bank of the stream.
- B. The WP-O is overlaid onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WP-O District differ. The principal control mechanisms of the WP-O are construction setbacks from the shoreline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the district.

### **§ 70-42. Permitted uses; prohibited uses.**

- A. The uses permitted within the WP-O are those permitted in the underlying zoning district as defined in Schedule A: Permitted Uses and the lot development standards as defined in Schedule B: Lot Development Standards of Article IV except where provisions of the WP-O differ.

B. The following uses are specifically prohibited within 500 feet of the ordinary highwater mark of a waterbody within the WP-O District:

1. Junkyards and solid waste disposal or processing facilities
2. Mineral extraction or surface mining
3. Freight or truck terminals
4. Bulk fuel storage
5. Bulk industrial chemical storage or processing

C. Development with 5,000 square feet or more of imperviousness.

Any proposed development creating 5,000 square feet or more of new imperviousness that would be partially or entirely located within the WP-O District shall require Site Plan Review by the Planning Board. Site Plan review shall be conducted in accordance with the procedures established in Article IX Site Plan Review.

**§ 70-43. Watercourse buffer standards.**

A. The land use activities regulated by this §70-43 apply to all land area within in the WP-O “buffer” which is defined as all land area within fifty (50) feet of the ordinary high-water mark.

B. The following are exempt from the requirements of the WP-O buffer standards:

1. Docks, boat ramps, bulkhead, pump houses, utilities, pervious walkways, and elevated walkways which provide the property owner with reasonable access to the water are permitted.
2. Public access and recreational areas, including park-related furnishings (benches, picnic tables, pavilions, refuse containers, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the watercourse.
3. Water dependent uses, open air patio seating for dining, and other pedestrian related uses that may require proximity to a location on a watercourse, may not be subject to shoreline setback requirements as determined by the Planning Board as part of Site Plan Approval.
4. Structures of a retail or service business demonstrated to be waterdependent or water-related may be authorized to be located within the required setback with an approved Special Use Permit; however, the Planning Board shall have the authority to impose additional conditions as may be warranted.
5. Activities subject to regulation under Section 404 (Discharge of Dredged or Fill Material into Waters of the United States) of the Clean Water Act by the US Army Corps of Engineers.
6. Activities subject to regulation and approved by the New York State Department of Environmental Conservation.
7. Removal of dead (but not dormant) or damaged vegetation, or invasive vegetation.
8. Selective removal of trees that may damage an existing structure.

9. Land uses occurring on the particular site at the time this provision was adopted.
  10. Maintenance and repair of existing structures and/or features that do not result in any change in the footprint of the structure or features.
  11. Stormwater management activities that have been permitted by the Town.
- C. Standards for activity within fifty (50) feet of the ordinary highwater mark of watercourses located in the WP-O.
1. Watercourse buffers shall be identified on all relevant drawings for subdivision plats, site plans, building plans, and/or other submittals to the Planning Board.
  2. No new primary or accessory structures shall be constructed within fifty (50) of the ordinary high watermark.
  3. Agricultural activities. Soil shall not be disturbed within fifty (50) feet of the ordinary water mark of the river or within fifty (50) feet of direct tributaries that are within the WP-O District.
  4. There shall be no encroachment within twenty (25) feet of the streambank unless an erosion and sediment control plan has been submitted and approved as part of a required Building Permit or Site Plan Approval as applicable in this Chapter.
  5. The following activities and land use are prohibited:
    - a. new, clear-cutting, grubbing, or stripping of vegetation.
    - b. Limbing more than fifty percent (50%) of the branches or height of a single tree shall be prohibited.
    - c. Introduction of invasive species listed on the New York State Department of Environmental Conservation's "List of Prohibited and Regulated Invasive Species."
    - d. Excavation
    - e. New hardscape.
    - f. Concentration of stormwater runoff that increases the erosion potential downstream of its point of discharge.
    - g. Storage or placement of fill or hazardous materials, including sewage systems, or possible pollutants including, but not limited to, garbage and junk cars.
  6. All disturbed soils shall be stabilized within seven (7) days of the completion of earth-disturbing activities, including temporary cessation of earth-disturbing activities that may occur in association with construction phasing.
  7. All new vegetation shall be plants native to the area and adapted to the particular soil and hydrologic conditions in which they will be planted.

**§ 70-44. Stormwater Management and Erosion Control.**

Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control and the most recent New York State Department of Environmental Conservation *Stormwater Management Design Manual*.

**§ 70-45 through § 70-46. Reserved.**

## **ARTICLE VI: Additional Standards for Specific Uses**

### **§ 70-47. Accessory Dwelling Units.**

- A. The principal dwelling shall be owner occupied in the R-Rural District.
- B. Accessory dwelling units may be located in a principal or accessory structure but shall not exceed 800 square feet when located in an accessory structure.
- C. The accessory unit shall be entirely self-contained, with separate cooking, sanitary, and sleeping facilities for the exclusive use of the accessory unit's occupant(s).

### **§ 70-48. Adult entertainment.**

- A. Purpose: The purpose of this Article is to regulate the establishment of such adult use businesses within close proximity to residentially zoned areas, Town boundaries, schools, park, playgrounds and religious institutions and to minimize said effects on nearby properties.
- B. General requirements:
  - 1. No adult use shall be located within 2,000 feet of an area zoned RA, MU or municipal boundary.
  - 2. No adult use shall be located within 2,000 feet from any religious institution, school, park, or playground.
  - 3. No adult use shall be located within 2,000 feet of any other such adult use.
  - 4. Sexually suggestive photographic or artistic representations shall not be visible from outside. All signage shall comply in all other respects with the existing regulations of the Town of Canton.
  - 5. All openings to an adult use facility shall be located and screened in such a manner as to prevent a view into the interior from the exterior.

### **§ 70-49. Agricultural uses.**

- A. Exemption of agricultural activities located in a State Agricultural District.

Agricultural activities meeting the definition of agriculture in this Chapter and located in a State Agricultural District as defined in Agriculture and Markets Law 25-AA and meeting the definition of farm operation as defined in the Agriculture and Markets Law 25-AA, §301(11) shall be exempt from the standards of this Section.

- B. Animal Husbandry (Keeping of Livestock)

1. Keeping of Fowl

- a. A maximum of twelve (12) laying fowl per acre are permitted.
- b. A maximum of 100 meat fowl may be raised for an eight to twelve (8-12) week period in the R-Rural District.
- c. Roosters and guinea hens are permitted in the R-Rural District only.
- d. There must be an enclosed coop with an enclosed run of a minimum of 100 square feet and a maximum of 200 square feet. If the coop is less than 144 square feet, no Building Permit is required unless it is attached to another building.
- e. Coops, regardless of size, shall be located in the side or rear yard only and shall have a minimum side yard setback of twenty (20) feet and rear yard setback of ten (10) feet.
- f. Slaughtering/processing is allowed in areas not visible to the public. By product from such activities shall be handled responsibly.

2. Keep of livestock other than fowl.

- a. For the keeping of horses and cows, there shall be a minimum of one (1) acre plus one (1) additional acre for each adult or fully-grown horse or cow.
- b. For the keeping of other smaller livestock, there shall be a minimum of one-acre plus an additional 10,000 square feet of land per goat, sheep, pig, llama, alpaca or other domestic-type farm animal or combinations thereof.
- c. Land required in addition to the minimum lot size in a and b above shall be characterized by areas of open space and vegetation suitable and dedicated for use by the animals.

3. In all instances, all animals shall be adequately fed, housed, fenced, and otherwise maintained in a sanitary and safe manner so as, on the finding of the Code Enforcement Officer, not to create a nuisance, health or safety hazard to nearby property, property owners, or inhabitants of the neighborhood or the animals themselves.

4. Buildings for the keeping of livestock except fowl shall be setback fifty (50) feet from a side or rear lot line and shall meet the front yard setback standards for a principal building; and shall be 120 feet from all residences on an adjacent property or any well used for a potable water supply.

**§ 70-50. Airports.**

A. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for Special Use Permit outlined in Article X, the following statements and information:

- 1. Name and address of the proponent.
- 2. Classification of the proposed airport (commercial, noncommercial or restricted).

3. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.).
4. Number of aircraft expected to be based at the airport initially and within five (5) years.
5. Type of aircraft expected to be based at the airport (single engine, multiengine, turboprop, etc.).
6. Whether an instrument approach procedure will be offered.
7. Statement as to the anticipated number of daily operations.
8. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including United States Geological Survey topographic map.
9. Copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of §249 of the New York State General business Law.

**§ 70-51. Battery energy storage systems.**

A. Purpose.

The standards of this Section for battery energy storage system installation and usage have the following objectives:

1. To provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of battery energy storage systems;
2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems; and
3. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.

B. Definitions.

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

CELL - The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

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.

DEDICATED-USE BUILDING - A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the Uniform Code, and complies with the following:

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2. No other occupancy types are permitted in the building.

3. 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.
4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - a. The areas do not occupy more than ten percent (10%) of the building area of the story in which they are located.
  - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL) - A US Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC - National Electric Code.

NFPA - National Fire Protection Association.

NON-DEDICATED-USE BUILDING - All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY - Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE - Any residence located on nonparticipating property.

OCCUPIED COMMUNITY BUILDING - Any building in Occupancy Group A, B, E, I, R, as defined in the Uniform Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

PARTICIPATING PROPERTY - A battery energy storage system 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 battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

UL - Underwriters Laboratory, an accredited standards developer in the United States.

C. Applicability.

1. The requirements of this §70-51 shall apply to all battery energy storage systems permitted, installed, or modified excluding general maintenance and repair.
2. Modifications to and retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this §70-51.
3. Tier 1 battery energy storage systems shall be permitted as an accessory use in all zoning districts when they are enclosed in a building and are used to store energy for a principal use on the property. These systems shall be subject to the Uniform Code and are exempt from Planning Board review. Examples of Tier 1 systems include: a battery bank installed in a residential garage to store energy collected from a dwelling's solar panels; a battery bank installed in the basement of an institutional, government, or office building (e.g., university library, hospital, government offices).
4. No Tier 2 battery energy storage system shall be located within 200 feet of a residential lot located in a R, RA, H, or MU zoning district.

D. General requirements.

1. A Building Permit shall be required for installation of all battery energy storage systems.
2. All battery energy storage systems, all dedicated-use buildings as defined in this Section, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system and subject to the Uniform Code and/or the Energy Code, shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

E. Special Use/Site Plan application submission requirements.

For a Tier 2 battery energy storage system the Special Use Permit and Site Plan applications shall be reviewed together by the Planning Board. In addition to the Special Use Permit and Site Plan and application requirements of Articles IX and X, the following information shall be included:

1. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
2. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters, and associated



electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of Building Permit.

3. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of Building Permit.
4. Commissioning plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a NYS-licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement Officer or reviewing board prior to final inspection and approval and maintained at an approved on-site location.
5. Fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
6. Operation and maintenance manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing, and commissioning information and shall meet all requirements set forth in the Uniform Code.
7. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
8. Prior to the issuance of the Building Permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS-licensed professional engineer.
9. Emergency operations plan. A copy of the approved emergency operations plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location near the entrance of the facility to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - a. Twenty-four (24)-hour contact information of facility personnel and system owners;

- b. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions;
  - c. Procedures for inspection and testing of associated alarms, interlocks, and controls;
  - d. Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;
  - e. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire;
  - f. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required;
  - g. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility;
  - h. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, including but not limited to periodic inspections by the Code Enforcement Officer; and
  - i. Procedures and schedules to conduct drills and training for local first responders on the contents of the plan and appropriate response procedures.
10. 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 removal from the facility. The decommissioning plan shall include:
- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components,

structures, equipment, security barriers, and transmission lines from the site;

- b. Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations;
- c. The anticipated life of the battery energy storage system;
- d. The estimated decommissioning costs prepared by an independent, third-party NYS-licensed professional engineer, and description of how said estimate was determined;
- e. The method of ensuring that funds will be available for decommissioning and restoration;
- f. The method by which the decommissioning cost will be kept current;
- g. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- h. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

F. Development standards.

- 1. Downwind from residential areas and hamlets. Tier 2 battery energy storage systems shall be downwind from adjacent residential areas and hamlets according to prevailing wind patterns to minimize the risk of exposure to toxic chemicals that may be released in the event of system failure.
- 2. Height. Tier 2 battery energy storage systems in a dedicated-use building shall comply with the building height limitations for principal structures of the underlying zoning district.
- 3. Setbacks. Tier 2 battery energy storage systems shall comply with the setback requirements of the underlying zoning district for principal structures.
- 4. Noise. The one-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of sixty (60) dBA as measured at the outside wall and/or the property line of any non-participating residence or occupied community building. Applicants 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 at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

5. Fencing requirements. Tier 2 battery energy storage systems, including all mechanical equipment, shall be enclosed by a six-foot-high solid fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
6. Screening and visibility. Tier 2 battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.
7. Vegetation and tree-cutting. Areas within ten (10) feet on each side of Tier 2 battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
8. Hazardous waste containment. All Tier 2 electrochemical battery energy storage systems in a dedicated-use building shall include an impermeable foundation and containment perimeter to prevent hazardous waste from contaminating surrounding land and water resources.
9. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
10. Signage.
  - a. A sign with twenty-four (24)-hour contact information of facility personnel and system owners shall also be posted near the front entrance of the facility. The signage shall be in compliance with American National Standards Institute I Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and twenty-four (24)-hour emergency contact information, including reach-back phone number.
  - b. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
11. Utility lines and electrical circuitry. 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 right-of-way. Any utility lines installed above ground on agricultural land in an NYScertified Agricultural District shall provide a minimum clearance of eighteen (18) feet as measured between the lowest point of the utility line and finished grade so as to minimize interference with

agricultural equipment that may be used in the surrounding area. The installation of guy wires should be avoided as they interfere with the operation of agricultural equipment.

- G. Decommissioning fund. The owner and/or operator of the energy storage system shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town, for the removal of a Tier 2 battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a NYS-licensed financial institution. All costs of the financial security shall be borne by the applicant.
- H. Safety standards for battery energy storage systems.
  - 1. System certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for Battery Energy Storage Systems and Equipment) with subcomponents meeting each of the following standards as applicable:
    - a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications)
    - b. UL 1642 (Standard for Lithium Batteries)
    - c. UL 1741 or UL 62109 (Standard for Inverters and Power Converters)
    - d. Certified under the applicable electrical, building, and fire prevention codes as required.
    - e. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations, and safety standards may be used to meet system certification requirements.
  - 2. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.
  - 3. Site access. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and local ambulance corps.
  - 4. Emergency response training. Upon project completion and annually for the life of the project, the applicant shall schedule and coordinate emergency response training with facility personnel, fire code officials, emergency responders, and allow the St. Lawrence County Emergency Management Office to tour the battery energy storage system and review implementation of the procedures outlined in the facility's emergency response plan.
  - 5. Emergency response equipment. In the event it is not available, the applicant shall be responsible for purchasing equipment and materials needed for emergency responders to implement procedures outlined in the facility's emergency response plan. Items may include, but are not limited to air monitors, ventilators and fans, and fire suppression.
- I. Ownership changes. If the owner of a Tier 2 battery energy storage system changes or the owner of the property changes, the Special Use Permit shall remain in effect, provided the successor owner or operator assumes, in writing, all of the obligations

of the Special Use Permit, Site Plan approval, and decommissioning plan. A new owner or operator of the Tier 2 battery energy storage system shall notify the Code Enforcement Officer of such change in ownership or operator within ten (10) of the ownership change. A new owner or operator must provide such notification to the Code

Enforcement Officer in writing. The Special Use Permit and all other local approvals for the battery energy storage system shall be void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void Special Use Permit will be subject to the same review and approval processes for new applications under this Section.

J. Permit time frame and abandonment.

1. The Special Use Permit and Site Plan approval for a battery energy storage system shall be valid for a period of twenty-four (24) months, provided that a Building Permit is issued for construction. In the event construction is not completed in accordance with the final Site Plan, as may have been amended and approved, as required by the Planning Board, within twenty-four (24) months after approval, the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after thirty-six (36) months, the approvals shall expire.
2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 battery energy storage system and restoration of the site in accordance with the decommissioning plan.

**§ 70-52. Campgrounds.**

- A. Campgrounds shall be occupied only by travel trailers, pickup camper, motor homes, camping trailers, recreational vehicles, tents, lean-tos, seasonal buildings or other structures suitable for temporary habitation and used for travel, vacation and recreational purposes. Seasonal buildings shall not be constructed for year-round occupancy (inadequate insulation, heating).
- B. Temporary camping facilities not located in a campground for special events of seventy-two (72) hours or less not more than twice in calendar year shall be exempt from the standards of this section, however, a temporary permit shall be required from the Code Enforcement Office and any required Department Health standards shall be met.
- C. Campgrounds must meet these specific regulations:
  1. Minimum gross site area: three (3) acres.
  2. Setbacks.

- a. The front setback from a public right of way for any campground facilities shall be 100 feet.
- b. No camp site or campground facilities shall be within fifty (50) feet of a property line.

D. Camping site standards.

- 1. Each campground shall have defined and identifiable camping site areas. The total number of camp sites in such campground shall not exceed ten (10) per gross acre.
- 2. Each camp site shall have a minimum site width of fifty (50) feet.
- 3. Only one (1) recreational vehicle shall be permitted to occupy any one (1) camp site. Two tents may be allowed per site, or one (1) tent plus recreational vehicle.

E. The removal of wheels or placement of a unit on a foundation in a camping ground within a designated flood plain is prohibited.

F. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health and safety of the occupants. The site shall not be exposed to objectionable smoke, odors or other adverse influences, and no portion of the campgrounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

G. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin operated laundries and other uses and structures customarily incidental to the operation of campgrounds are permitted as accessory uses to the campgrounds.

H. Retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds in such zones where such uses are not allowed as principal uses, subject to the following restrictions:

- 1. Such establishments shall present no visible evidence from any street outside the campground of their commercial character.

I. Potable water and sewage disposal must meet Department of Health standards.

**§ 70-53. Car washes.**

A. This Section applies to any auto wash established as a permanent use. This Section does not apply to temporary car wash activities sponsored by schools, nonprofit organizations, or groups for the purposes of raising money for designated events.

B. In addition to meeting the minimum yard and lot coverage requirements, any car wash establishment shall be subject to the following regulations:

1. Shall not be closer than 200 feet to a residential use in an RA Zoning District.
2. In addition to meeting the off-street parking and loading requirements of §7084, shall provide five (5) stacking spaces per bay on the lot to prevent the waiting of automobiles in the public street.
3. Ingress and egress shall be designed to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to the explicit approval of the Planning Board as part of Site Plan Review.
4. The premises shall not be used for the sale, rent, or display of automobiles, trailers, mobile homes, boats, or other vehicles unless one of these uses is the permitted principal use on the lot and the car wash is an accessory use to that principal use.
5. As part of Site Plan review for car washes, evidence of an adequate septic system and long-term source of public or private water shall be submitted to show that water usage will not affect surrounding properties.

**§70-54. Contractor's business storage yard/construction yard.**

A. Contracting businesses which have associated outdoor storage of material, equipment, and vehicles (a contractor's yard or construction yard) shall meet the following standards for all outdoor storage.

1. Storage yards, equipment and vehicles shall not be located within 100 feet of any property line.
2. Storage yards, equipment and vehicles related to the contractor's business shall be screened from adjacent properties and the public right-of-way with a landscaped screening or fence when located in the R-Rural Zoning District. The required screening may be waived at the discretion of the Planning Board if the location and/or natural features are such that the outdoor storage is not visible to the public right of way or adjacent properties.

**§ 70-55. Drive-through window facilities.**

A. All of the following requirements must be met for the primary use, whether or not the drive-through is accessory, to be granted a Building Permit for a drive-through window:

1. The site shall be adequate in size and shape to accommodate said use and to accommodate all yards, parking, landscaping, and other required improvements.
2. Lighting. All lighting on the exterior of the building shall be of an indirect nature, emanating only from fixtures located under canopies or hoods, under eaves of buildings, and at ground level in the landscaping. Freestanding pole lights shall not exceed a maximum height of fourteen (14) feet and shall be so arranged and shielded that there shall be no glare or reflection onto adjacent properties or public rights-of-way.



3. Speakers shall be located and positioned in a way to mitigate noise impacts on adjoining properties.
4. Signs should be placed and waiting lanes should be designed so that waiting cars do not block sidewalks or public streets.
5. Landscaping, waiting-lane devices, and overall design should not prevent vehicles from safely and efficiently leaving waiting lanes.
6. Traffic circulation.
  - a. A traffic study addressing both on-site and off-site traffic and circulation impacts is required.
  - b. Pedestrians should be able to enter the establishment from the parking lot or sidewalk without crossing the waiting or exit lanes when practicable.
  - c. Waiting lanes shall accommodate the following number of cars to be in a queue or stacked based on the use:
    - [1] Fast-food restaurants and coffee shops: sufficient to accommodate a minimum queue of eight (8) vehicles.
    - [2] All other drive-through windows: sufficient to accommodate a minimum queue of four (4) vehicles.
  - d. Waiting lanes shall be designed for the maximum length possible. At a minimum, waiting lanes should accommodate average peak monthly traffic flow, allowing twenty (20) feet per vehicle. Applicants must provide data about the peak flows of the business to determine the minimum waiting needed.
  - e. The waiting lane shall be independent of any on-site parking, parking maneuvering areas, public streets, or traffic ways serving other on and/or off-site uses.

B. Site Plan requirements. In addition to the general requirements for Site Plan Review, drive-through window Site Plans must include the following features:

1. Design and placement of signs to ensure that they facilitate the safe and smooth flow of traffic.
2. Details of pedestrian and vehicular circulation.
3. Details of waiting lanes, including location and design of curbs, gates, bollards and chains, pavement markings, and similar devices.

### **§ 70-56. Gasoline service stations.**

The following standards apply to gasoline service stations, with or without convenience stores or other supplemental retail or service establishments.

A. General standards.

1. The minimum distance between the boundary of the property where the gasoline service station is located and the boundary of any other property with a gas station shall be 500 feet. Measurement shall be made with reference to the nearest respective lot lines.
2. A gasoline service station lot, fuel pump, and/or fuel storage tanks shall not be located within 2,500 feet of any municipal water wells or other municipal water

supply source; or within the Waterfront Overlay District. All fuel storage tanks shall comply with all Federal and State regulations.

3. All above ground storage tanks shall be set back from the major or secondary road line a distance of not less than seventy-five (75) feet.
4. Fuel pumps and pump islands shall meet the front setback requirements for all principal uses and shall be located not less than forty (40) feet from the road and not less than thirty (30) feet from side and rear property lines.
5. Electric vehicle charging stations shall meet the front, rear and side yard setbacks for an accessory use as provided in §70-34.
6. Fuel pumps and canopied areas are preferred to be located between the principal building and the side or rear lot line and not between the building and the street. The Planning Board may waive this provision if the applicant demonstrates there are practical difficulties with the site for safe access, or the visual aesthetics would be improved with a different configuration.
7. All permitted accessory services shall occur within enclosed buildings except electric vehicle charging stations.
8. Principal buildings shall be oriented to the street.
9. Principal buildings and canopies should have pitched roofs.
10. Outdoor storage of motor vehicles is prohibited. The premises shall not be used for the sale, rent, or display of automobiles, recreational vehicles, trailers, boats, or other vehicles.

#### B. Pump Island Canopies.

1. Canopies shall not exceed sixteen (16) feet in height from finished grade to the underside of the canopy.
2. Canopies shall be architecturally integrated with the principal building and all other accessory structures on the site by use of the same or compatible materials, colors, and roof pitch.
3. Any lighting fixtures or sources of light 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 more than two (2) inches to prevent glare from any point outside the area covered by the pump.
4. Signage, including logos and trademarks, is prohibited on the canopy or canopy supports. This prohibition does not include noncommercial information located on support structures, provided the noncommercial information is printed at the minimum size necessary to convey the information.
5. Canopy banding with striping or color accents on the canopy or canopy support structures is prohibited.

#### C. Independent traffic study.

An independent traffic study may be required to be conducted to assess the impact(s) of the development's fuel pump component on pedestrian, bicycle, horse and buggy and vehicular traffic from an access management perspective and circulation within the site itself.

### **§ 70-57. Home Occupations, Minor and Major.**

- A. The intent of regulations governing home occupations is to protect the character of the surrounding neighborhood, particularly adjacent residential uses, from intrusions and nuisances created by the operating businesses in a residential area, while recognizing the needs of certain residents and the community benefits allowing certain types of work to be performed in the home. There are two types of home occupations, minor and major, each of which has standards that shall be met in order to be considered either a minor home occupation or major home occupation. Such standards are provided in Subsection C and D below.
- B. No more than two home occupations, minor or major, shall be conducted on a lot.
- C. Minor home occupations.

A minor home occupation shall meet the following criteria. If the activity exceeds the criteria of this Subsection, the activity may meet the criteria of a major home occupation provided in §70-57. D below.

- 1. No person other than a member of the family residing within the dwelling shall be engaged in a minor home occupation.
- 2. No signage shall be permitted.
- 3. The minor home occupation shall generate no greater volume of traffic than would normally be expected from a singlefamily residence, consistent with the residential character of the neighborhood.
- 4. The following home occupation activities are considered minor home occupations:
  - a. Artists, such as but not limited to sculptors and composers.
  - b. Craft work, such as but not limited to woodworking, jewelry-making, and pottery.
  - c. Home offices with activities that may include receipt of mail and the making and receiving of telephone calls or other routine office work done exclusively by the dwelling unit resident related to a business or organization to the extent that non-resident visitors do not customarily come to the property.
  - d. Telephone answering and message services.
  - e. Individual student instruction. No more than two students shall be instructed at a time.

D. Major home occupations.

- 1. Permitted major home occupations as defined in this Chapter include activities that meet the standards below and are permitted to have an employee, sales, and client visits to the residence.
- 2. Major home occupations shall comply with the following requirements:
  - a. The occupation(s) will be conducted within a dwelling or existing accessory structure.

- b. The occupation(s) must clearly be incidental and subordinate to the principal use of the dwelling.
- c. The establishment and conduct of home occupation(s) shall not change the principal character or use or the dwelling unit involved.
- d. It is carried on by a person residing within the dwelling and the home occupation(s) employs no more than one (1) persons not living within the dwelling;
- e. Not more than fifteen percent (15%) of the first-floor area, not to exceed 500 square feet, of the residential dwelling may be devoted to such Home Occupation(s).
- f. There shall be no visible display of goods, tools, equipment, or commercial vehicles associated with the business from the public right of way and neighboring properties.
- g. Outdoor storage or work area shall not be located within twenty (20) feet of any property line and shall be located in the side or rear yard and screened from view of neighboring properties and the public right-of-way with a vegetative screening as described in §70-83 or fence. The Planning Board, at its discretion, may allow the use of existing vegetation or topography as screening if such vegetation or natural conditions are adequate and will screen such activity year-round.
- h. No more than two (2) commercial vehicles may be used in the conduct of the major home occupation, and such vehicles shall be parked off the street.
- i. Such occupation(s) shall not require extensive external alteration or invoke construction features not customarily in a dwelling.
- j. The use shall not generate noise, vibrations, glare, fumes, odors, or electrical interference above the ambient levels of the neighborhood.
- k. No traffic shall be generated by such home occupation(s) in significantly greater volume than would normally be expected in the zoning district, and any need for parking generated by the conduct or such home occupation(s) shall be met off the street in the side or rear yard.
- l. Student instruction shall be permitted but limited as follows:
  - (1) Such instruction shall be limited to a total of eight (8) students per day, with no more than forty (40) total per week or six (6) students present at any one time, between the hours of 8:00am and 9:00pm.
  - (2) Gatherings of students and families for exhibitions and group activities may take place within the dwelling no more than four (4) times per year. Such gatherings shall consider the residential character of the neighborhood, as applicable, regard to noise and parking.

m. Signage shall meet the standards of §70-87. E for the zoning district in which it is located.

E. Prohibited home occupations.

The following businesses are prohibited as home occupations unless such use is permitted as a principal use in the district in which it is located: minor and major motorized vehicle repair establishments, towing and vehicle storage business, machine shop, welding shop, salvage yard, motor vehicle sales, commercial outdoor storage or parking, commercial greenhouses; manufacturing processing, packing, or serving of food directly or indirectly to the public, medical or dental laboratory, restaurant, bulk storage of flammable liquids, funeral homes, kennels, microbrewery, cannabis related activities, boarding or rooming house, or bed and breakfast.

**§ 70-58. Junkyards, Scrap and/or Salvage Operations (with or without recycling operations).**

- A. No person shall establish, operate or maintain a junkyard, scrap or salvage operation (either with or without a recycling component) in any area of the Town until a Special Use Permit has been authorized by the Town Planning Board and the operator has obtained a license to operate a junk yard business and an Annual Operating Permit. All junkyards and/or salvage/scrap operations shall comply with the following requirements.
- B. Size. The minimum lot size shall be ten (10) acres.
- C. Location. A principal structure shall be located on the parcel. The storage area shall be located in the rear yard of the principal structure and shall not be located within:
  - 1. Five hundred (500) feet from any highway, property line or wetland.
  - 2. Two thousand five hundred (2500) feet from a body of water.
  - 3. Five hundred (500) feet from any existing dwelling (with the exception of a dwelling on the parcel), church, school, hospital, public building or place of public assembly.
- D. Fencing.
  - 1. Junkyards, scrap and salvage yards shall be completely surrounded with a fence which substantially screens junkyard, scrap or salvage materials from visibility from other property in the vicinity of the junkyard, and from a public right-of-way. All junk and dumping materials stored or deposited at the site shall be kept within the enclosure, except during transportation of same in the reasonable course of the business.

2. Such fence shall have a gate which shall be closed and locked except during the working hours of said use.
  3. Such fence shall not be erected nearer than 100 feet from the center line of a public right-of-way.
  4. The fence shall be a minimum of eight (8) feet in height and constructed of wood, vinyl, masonry, or similar material and shall be kept in good repair.
  5. Junk or salvage materials shall not be piled higher than the height of the fence.
  6. For fire protection, an unobstructed fire break shall be maintained, sixteen and one-half (16.5) feet in width and completely surrounding the salvage or junkyard. If deemed necessary by the Code Enforcement Officer, a site plan shall be submitted to determine the required fencing height and design, which is to be based on the visibility lines and terrain of the parcel in question and/or surrounding areas.
- E. Natural Screening. Where the topography, landforms, natural growth of trees or similar considerations accomplish the screening purposes of this Subsection, the fencing requirements may be reduced by the Planning Board, provided, however, that such a natural barrier effectively controls views of said junkyard, scrap or salvage yard but not access to the junkyard, scrap or salvage yard.
- F. No such business shall be conducted in such a manner as to unreasonably interfere with the health or property or the enjoyment thereof by another in the same neighborhood by the emission of noxious odors, gases or smoke or noise or otherwise.
- G. Such premises shall be always maintained in a clean, safe and orderly fashion so as not to endanger the health and safety of those persons lawfully on the premises, the employees and customers of said business.
- H. Storage of explosives and large quantities of gas in tanks is prohibited.
- I. Fires are prohibited.
- J. Stock piling of tires and batteries is prohibited.
- K. No cutting by any method shall be permitted outside a building in front of such junkyard at any time.
- L. The owner or operator of any property used as a junkyard, scrap or salvage yard shall undertake rodent control measures so as to prevent the infestation of rodents in any such junkyards. The rodent control measures taken shall be documented by a professional pest control company or by the owner or operator of the junkyard and shall be consistent with the then prevailing rodent control practices followed by professional pest control businesses in the area.

- M. Operational Plan. The Special Use Permit application shall be accompanied by a detailed description of the proposed method of operation; the manner in which materials will be stored; the equipment proposed to be used; the method of disposition of end products; the manner in which adjoining property owners will be protected; the house of operation; the Town highways proposed to be used; the gross weight of equipment to be used in hauling in and hauling out of any of the product; and other similar information as the Planning Board may require.
- N. The application shall be accompanied by a proposed restoration plan and illustrative drawing showing the manner in which the site will be restored.
- O. A decommissioning bond is required prior to issuance of a Special Use Permit. The owner or operator of the junkyard, scrap or salvage yard shall post a surety in an amount and form acceptable to the Town for the purpose of removal in the event the junkyard, scrap or salvage yard becomes abandoned.
- P. Permits.
  - 1. No junkyard shall be established in the Town until a Special Use Permit and an Annual Operating Permit have been applied for and granted in compliance with this Ordinance.
  - 2. Junkyards granted a Special Use Permit by the Planning Board shall not operate without an Annual Operating Permit. The initial Annual Operating Permits for the operation of a junkyard shall be subject to approval by the Town Planning Board. The Annual Operating Permit for a junkyard shall be effective until June 1 of the calendar year after its issuance.
  - 3. An application for renewal of the Annual Operating Permit shall be made to the Code Enforcement Officer thirty (30) days prior to the expiration date of the previous permit. The CEO may not renew the Annual Operating Permit of any junkyard that is not in compliance with the above requirements and any additional requirements established in the Special Use Permit by the Planning Board. The CEO shall approve or deny the renewal of such Annual Operating Permit using the standards in effect in these and other applicable regulations and any conditions in the Special Use Permit, after payment of the required fee.
- Q. In addition, the provisions of General Municipal Law § 136 are hereby adopted by reference and shall apply to all automobile salvage operations in the Town of Canton.

**§ 70-59. Kennels and Animal Shelters.**

- A. Adequate landscaping or fencing shall be provided to create a visual, sound and odor buffer between such facility and adjacent properties. The Planning Board shall use its discretion to determine what is necessary

based on the site characteristics and location of the kennel or shelter activities.

- B. All buildings, pens, runs, structures or other accessory uses, including waste disposal, shall be at least seventy-five (75) feet from any property line.
- C. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 7:00 a.m.
- D. All animal boarding buildings that are not wholly enclosed, and any outdoor animal pens, stalls, or runways shall be located within the rear or side yard.
- E. All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals.
- F. All animal waste shall be regularly cleaned up and properly disposed of. The applicant shall submit evidence that waste can be properly handled and that adequate sewage facilities exist or will be provided for the use. No excrement, manure or other odor or dust producing substance shall be stored or disposed of within 200 feet of any water well, waterway, stream, pond, ditch or lake.
- G. The applicant shall demonstrate a working plan to prevent or alleviate significant noise impacts from animals boarded on the site. Noise generated shall not be excessive or persistently occurring or continue to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of the neighbors.
- H. Outdoor running areas shall be fenced in a manner that restricts access and provides for a full enclosure.
- I. The owner/operator of the kennel or shelter shall be responsible for exercising suitable control over the animals and shall not allow a nuisance condition to be created in terms of excessive noise or odor.
- J. The Planning Board may, as part of Special Use Permit review, limit the number of dogs that may be kenneled or sheltered to mitigate potential adverse impacts related to noise, waste or odor upon evaluation of the applicant's plans and site characteristics in the context of their surroundings.

**§ 70-60. Manufactured homes.**



- A. The following standards and installation requirements are required for all manufactured homes, including the replacement of any manufactured home with another manufactured home.
1. All manufactured homes manufactured after June 1976 shall bear the U.S. HUD Seal.
  2. Individual manufactured homes are subject to all applicable portions of this Chapter pertaining to single family dwellings.
  3. Hauling mechanisms. All mechanisms used to transport the manufactured home to the site including, but not limited to, the wheels, axles and tongue, hitch, transporting lights and removable towing apparatus must be removed within thirty (30) days of setup and placed out of sight.
  4. All manufactured homes shall be provided with a skirt constructed of generally accepted exterior materials of uniform appearance with proper venting within thirty (30) days after the placement of the manufactured home on its foundation and anchored to the ground as per the NYS Uniform Building Code.
  5. All manufactured homes without a permanent perimeter enclosure shall have an approved foundation skirting enclosing the entire perimeter of the home.
  6. Roof. The pitch of the roof must have a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run.
  7. Exterior siding. The exterior siding must be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction such as wood, hardboard, vinyl or metal or any other material allowed by the Uniform Building Code for site-built homes which is aesthetically compatible with the home and having the appearance of site-built construction.

**§ 70-61. Manufactured home parks.**

- A. Manufactured home park operators are required to notify the Town Code Enforcement Officer within five (5) days each time a different manufactured home is moved into the park.
- B. The minimum site area of proposed manufactured home parks shall not be less than five (5) acres and a maximum of 10 acres.
- C. Perimeter setbacks. The park shall meet the setbacks of the zoning district the manufactured home park is in. The site shall be located and laid out so that no manufactured home is located within seventy-five (75) feet of any adjacent public right-of-way or within thirty-five (35) feet of any other adjoining property line.
- D. The overall density of homes within the park or subdivision shall not exceed six (6) units per acre.

- E. Manufactured home lots shall have an area of not less than 10,000 square feet. Each manufactured home lot shall front on an interior park roadway and have a minimum width of forty (40) feet.
- F. Minimum home lot setbacks.
  - 1. Minimum front setback for manufactured homes: twenty (20) feet.
  - 2. Minimum side setback: ten (10) feet.
  - 3. Minimum rear setback: twenty (20) feet.
- G. Not more than one (1) manufactured home shall be located on any one (1) manufactured home lot and shall have a New York State approved foundation. Every manufactured home within a manufactured home park shall be located on a manufactured home lot or in a designated storage area shown on the approved site plan for said park.
- H. Permanent patios or decks adjacent or attached to the manufactured home shall be permitted.
- I. At least one (1) service building may be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.
- J. No service building or office shall be located adjacent to a public street or any property line defining the perimeter of the manufacture home park.
- K. Each manufactured home lot must have no less than two (2) off street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by an improved walkway.
- L. A complete water distribution system approved by the New York State Health Department shall exist for each manufactured home park if there is not a municipal water system. It must have a water service pipe for each manufactured home lot.
- M. A sanitary sewage disposal system approved by the New York State Department of Health and other appropriate agencies shall be installed and maintained if there is not a municipal sewage system. It shall include a sewer connection for each manufactured home lot.
- N. All public utility, electric, cable television and telephone lines to each individual dwelling unit shall be installed underground.
- O. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one (1) at each intersection of interior roadways with each other or with abutting public roads and at least 200 feet where such intersections are more than 200 feet apart.

- P. A walkway shall be constructed for each lot or space to connect parking spaces to the manufactured home entrance.
- Q. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- R. No manufactured home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said manufactured home lot have been installed in accordance with the approved site plan for the manufactured home park.
- S. All fuel tanks used for heating within manufactured home park, including all systems used for heating within manufactured homes, shall be installed in accordance with appropriate New York State standards.
- T. The park owner or tenant shall provide for the regular collection and disposal of garbage, trash and rubbish.
- U. No more than one (1) accessory building shall be permitted on any manufactured home lot.
- V. No enclosure or addition with the exception of carports, decks, roofs, door porches and patios shall be constructed on or added or attached to the exterior of any manufactured home.
- W. No manufactured home shall be offered for sale, displayed for sale or sold within a manufactured home park unless such manufactured home is located on a manufactured home lot and is connected to an electric public utility supply and to a sewer and water supply.
- X. Each roadway shall be named and noted upon signs at each roadway intersection. Each manufactured home lot shall be assigned a permanent 911 locator number which shall be noted on the manufactured home lot in a location clearly visible from the roadway.
- Y. Every roadway within a manufactured home park shall have a minimum pavement width of twenty-two (22) feet and a minimum cleared width of fifty (50) feet. If cul-de-sac exists, they shall have a minimum diameter of seventy (70) feet.
- Z. Every roadway within a manufactured home park shall be maintained in good repair without potholes and shall be always open and reasonably passable for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provision of this Subsection shall apply to manufactured home parks hereafter established within the Town.

AA. At least eight percent (8%) of the total area of a manufactured housing park shall be devoted to recreational use by the residents of the park. Such use may include space for community buildings, gardens, outdoor play areas, swimming pools, ball courts, racquet courts, etc.

**§ 70-62. Microbreweries, micro-distilleries and cideries.**

- A. A tasting room or other form of on-site consumption open to the public associated with, and accessory to, an on-site microbrewery, micro-distillery or cidery is permitted in the R-Rural and RA-Residential Agricultural zoning districts provided it meets the following standards:
1. Hours of operation. The tasting room or on-site consumption activity shall be closed to patrons before 11:00 a.m. and after 10:00 p.m.
  2. No live entertainment shall be located outside after 9:00 p.m.
  3. Noise generated should generally not exceed average ambient levels which are generally considered to be forty-five (45) decibels (dBA) or less as measured at the property line.
  4. As part of project review, any plans for outdoor seating and gathering areas and outdoor live entertainment shall be included and identified on a site plan.
  5. Off-street parking shall be provided based on the projected number of patrons at peak times. If the number of patrons consistently exceeds that projection, the property owner shall increase available parking to meet the demand.
  6. Safe points of ingress and egress from the property shall be provided with careful consideration of line of sight.

**§ 70-63. Mini self-storage unit facility; mini self-storage units.**

- A. No building shall exceed 150 feet in length.
- B. Buildings must be constructed on a permanent foundation and the buildings must conform to the requirements of the NYS Uniform Code.
- C. No storage unit door shall face the road frontage, except on a corner lot where storage unit doors may face one road.
- D. If more than one building, buildings shall be connected with an internal vehicular circulation system with a minimum width of twenty-four (24) feet.
- E. Mini self-storage unit facilities should provide landscaping in accordance with §70-83, Screening and Buffering when visible from the public right-of-way.

**§ 70-64. Motor vehicle repair services.**

- A. For all overnight storage parking associated with automotive repair uses located, perimeter screening as prescribed in §70-83 Screening and Buffering, shall be provided

to screen the parking from the public right-of-way and/or neighboring residential uses, if the motor vehicle repair service is located in the R or MU Zoning District.

- B. Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not permitted for a period exceeding sixty (60) days.

**§ 70-65. Multiple-family dwellings.**

A. Multiple-family dwellings must meet these specific regulations:

- 1. The maximum gross density shall not exceed eight (8) units per acre providing all health and State Building Code requirements are met.
- 2. Minimum habitable floor area requirements:
  - a. Efficiency: 350 square feet.
  - b. One bedroom: 550 square feet.
  - c. Two bedrooms: 800 square feet.
  - d. Three bedrooms or more: 900 square feet.

**§ 70-66. Outdoor storage, accessory commercial use.**

- A. Any outdoor storage area, accessory to a commercial use shall be located in the side or rear yard and shall be at least twenty (20) feet from all property lines.
- B. All outdoor storage areas shall be screened from the public right-of-way, if visible, pursuant to §70-83.B, perimeter screening and buffering.
- C. All outdoor storage areas shall be screened from adjacent properties pursuant to the screening standards of §70-83.B, perimeter screening and buffering, except when located in the C-Commercial District.
- D. Outdoor storage shall not be construed to include a junk yard or any similar use and shall meet the requirements of other provisions in this Chapter and the Town Code.

**§ 70-67. Outdoor Wood Boilers**

- A. Outdoor wood boilers shall require a Zoning Permit and Building Permit from the Code Enforcement Officer.
- B. All outdoor wood boilers shall conform to Title 6, Part 247 of the New York State Codes, Rules and Regulations

**§ 70-68. Portable storage containers.**

- A. Trucks, truck bodies, semi-trailers, buses, house trailers and recreational vehicles shall not be utilized for the storage of property and are not considered lawful storage containers.

- B. Lawful portable storage containers that are not temporary and/or associated with an activity as described in Subsection A above, shall only be permitted on lots that are a minimum of two acres in size. Such storage containers shall only be located in the rear or side yard and shall not be visible, year-round, from the public right-of-way (street), or to adjacent properties.
- C. Temporary portable storage containers used as part of an active renovation or construction project, or are necessitated by an unforeseen and uncontrollable event, or to assist in moving into or out of a property may be used temporarily but shall not be placed on the streets or sidewalks or in front yards other than on a driveway. Such portable storage containers shall not be placed on any property more than two (2) times per calendar year and not more than thirty (30) days at a time. The Code Enforcement Officer may approve an extension of up to ninety (90) days for good cause shown.

**§ 70-69. Primary dwellings; foundation required.**

Any dwelling to be used as the primary dwelling on a lot shall require a foundation. This definition shall include tiny homes and manufactured homes used as the primary dwelling on a lot.

**§ 70-70. Recreational vehicles as temporary/seasonal housing.**

- A. A recreational vehicle intended for portable temporary housing of guests or occupants may be used for living, sleeping or housekeeping purposes when parked or stored on an owner-occupied residential lot for up to thirty (30) days within a twelve (12) -month period. There shall be no fee charged for such occupancy. Such recreational vehicle shall be located in the side or rear yard only.
- B. A recreational vehicle may be used for temporary housing of the owner of the lot on which a residential dwelling is being constructed in conjunction with a valid Building Permit.
- C. Recreational vehicles on undeveloped lots in the R and RA Zoning Districts.
  - 1. Recreational vehicles intended for portable temporary housing may be used for living, sleeping or housing purposes on an undeveloped lot by the property owner and their guests in the R and RA Zoning Districts meeting the following standards:
    - a. A limit of up to two (2) recreational vehicles, one of which shall be utilized by the property owner, shall be permitted for a period of up to 120 days within a twelve (12) month period. There shall be no fee charged for such occupancy.
    - b. Setbacks. Such recreational vehicles shall meet the setback requirements of a principal building in the zoning district in which the lot is located as provided in Schedule B of this Chapter.
    - c. Generators shall not be run before 7:00 a.m. or past 9:00 p.m.

**§ 70-71. Roadside stands, seasonal.**

- A. Agricultural activities meeting the standards of §70-7 are exempt from this Section.
- B. Seasonal, temporary roadside stands as defined in this Chapter, shall be permitted as an accessory use in compliance with the following standards:
  - 1. Seasonal/temporary stands shall be for the sale of items produced on site and/or may include items locally produced off-site by an agricultural use as defined in this Chapter.
  - 2. Structures used to house or shelter products or persons may be a roofed structure but shall not be attached to the ground.
  - 3. Temporary stands shall be setback twenty (20) feet from the public right-of-way.
  - 4. No on-street parking is permitted.
  - 5. Safe access for ingress and egress must be provided.

**§70-72. Solar Energy Systems.**

- A. Purpose.

This Section intends to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefore, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation.

- B. Applicability.

- 1. The requirements of this Section exclude general maintenance and repair.
- 2. All references to the "owner," for purposes of this section, shall refer to the owner of the solar energy system.
- 3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code Act and the Town Code.
- 4. Nothing contained in this provision shall be construed to prohibit "Collective Solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York State Public Service Law § 66-j or similar New York State or federal law or regulation.
- 5. All solar energy systems shall be designed, erected, and installed in a manner so as to prevent undue glare noise and/or visual impact deterrence from falling on adjoining properties or creating traffic safety issues.

6. All solar energy systems shall require a Building Permit.
7. Posting Notice to Emergency Responders
  - a. For any source of auxiliary or emergency electric energy that is connected automatically to the electric distribution system of a building, either residential or commercial, under the provisions of the National Electric Code, NFPA 70, all building owners or operators shall affix a decal or sign that notifies emergency response personnel of the presence of an automatically actuated emergency electric power source.
  - b. Said decal or sign shall be affixed directly on, or within 3 feet, of the utility metering equipment.
  - c. The decal or sign shall be designed in consultation with emergency response personnel and shall be made available through the Code Enforcement Office. The cost of such decal or sign shall be assessed to the building owner or operator.
  - d. This requirement shall not apply to temporary installations of a stand-by electric energy sources such as a portable electric generator or other portable sources of electric energy.

C. Small-scale solar energy systems.

1. Roof-mounted systems are permitted as accessory uses in all zoning districts, subject to the following requirements:
  - a. The distance between the roof and highest edge or point of the system shall be in accordance with the New York State Uniform Fire Prevention and Building Code.
  - b. Rooftop and building-mounted solar collectors shall not obstruct solar access to adjacent properties.
2. Ground-mounted and freestanding solar energy systems are permitted as accessory structures in all zoning districts, subject to the following requirements:
  - a. The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
  - b. The height of the solar collectors and any mounts shall not exceed twenty (20) feet when oriented at maximum tilt.
  - c. The solar collectors may not be located closer to a front lot line than the principal building on a property. If the side or rear yard is visible from adjacent properties and roads, a solid fence, berm, or vegetative screening that conforms to local requirements may be installed along shared lot lines to minimize visual impact to neighboring properties.
  - d. Ground-mounted and freestanding solar collectors shall not obstruct solar access to adjacent properties.
3. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards. Prior to operation the electrical connections must be inspected by the Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.



4. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of St. Lawrence County and other applicable laws and regulations.
5. Decommissioning requirements for small-scale solar energy systems. If a ground mounted solar collector(s) ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than ninety (90) days after the end of the twelve-month period. In the event that the property owner fails to remove the aforesaid non-functioning system within the time prescribed herein, the Town may enter upon the land where such system has been installed and remove same. All expenses incurred by the Town in connection with the removal of the non-functioning system shall be assessed against the land on which such freestanding or ground mounted solar collector(s) is located and shall be levied and collected in the same manner as provided in Article 15 of the NY Town Law for the levy and collection of a special ad valorem levy.

D. Medium-scale solar energy systems.

1. All medium-scale solar energy systems shall require Site Plan approval and include the application materials required in §70-72. The Planning Board review of medium-scale solar energy systems shall include, but not be limited to consideration of the visual effect of the proposed solar installation on scenic and historic resources and viewsheds; impacts on community character; compatibility of the proposed solar system with adjacent and other nearby land uses; compatibility with agriculture and farmlands, managing stormwater runoff, and the effect of the proposed installation on ecologically sensitive land or water resources.
2. All medium-scale ground mounted solar energy systems are subject to the lot development standards for the district in which it is located as provided in Article IV, District Regulations except as otherwise provided below in a through d:
  - a. Medium-scale solar energy systems accessory to a principal use shall only be located in the side or rear yard and shall have the following setbacks:
    - (1) Side yard setback of twenty (20) feet adjacent to a residential use; ten (10) feet adjacent to a nonresidential use.
    - (2) Rear yard setback of twenty (20) feet.
  - b. Medium-scale solar energy systems that are the principal use of the lot shall meet the following setbacks: (1) The front yard setback shall be 100 feet.
    - (2) The side yard setback shall be 100 feet for lots adjoining a residential use in any zoning district and twenty-five (25) feet adjoining a lot with a nonresidential use in a commercial or industrial zoning district.

3. Fencing, landscaping, berming, and access roads may be located in the required setbacks.
4. Medium-scale ground mounted systems shall have a maximum height of twenty (20) feet as measured from the highest natural grade below each solar panel.
5. Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by an eight (8) feet high fence with a self-locking gate to prevent unauthorized access.
6. Anti-Glare. All solar collectors and related equipment shall be surfaced, designed, coated with anti-reflective materials, and sited so as not to reflect glare onto adjacent residences and roadways.
7. Screening.
  - a. All medium-scale solar energy systems shall be completely screened with a vegetative buffer or landscaping from all streets and adjacent residential uses. Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the facility and accessory structures from roads, neighboring residences, and other uses. Any existing tree or group of trees which stands within or near a required planting area may be used to satisfy the screening and tree planting requirements. The protection of tree stands, rather than individual trees, is strongly encouraged.
  - b. Landscaped screening without a 100% opaque fence, wall or berm shall be comprised of a minimum of one evergreen tree such as arborvitae, norway spruce, pitch pine, and eastern red cedar every six (6) to ten (10) feet depending on the species, at least six (6) feet high at time of planting, plus two supplemental shrubs at the reasonable discretion of the Planning Board. At the discretion of the Planning Board, such vegetative screening may be modified, including the substitution of deciduous trees, when fencing, walls or berms are proposed to be used for screening.
8. Stormwater Management. The medium-scale solar energy system shall be designed with the ground cover as pervious to the maximum extent practicable so that stormwater infiltrates as sheetflow across the system. If solar panels are constructed in such a manner as to promote effective infiltration of rainfall the solar energy system may be considered pervious for stormwater pollution prevention purposes. Other structures such as but not limited to transformers, buildings, or paved entrance roads shall still be considered impervious. The following criteria shall be used to establishing a Solar Energy System as pervious cover:
  - a. Panels must be positioned to allow water to run off their surfaces.
  - b. Soil with adequate vegetative cover must be maintained under and around the panels.
  - c. The area around the panels must be adequate to ensure proper vegetative growth under and between the panels.

9. Wetland Protection. No solar energy system shall be installed on a designated wetland as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, or other governing body.
10. Protection of Critical Environmental Areas. No solar energy system shall be installed on Critical Environmental Areas (CEAs) as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, or other governing body.
11. Protection of Agricultural Resources.
  - a. Any solar energy system located on farmlands that consist of Prime Farmland if “well-drained” or Farmland of Statewide Importance shall not exceed thirty-five percent (35%) of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.
  - b. To the maximum extent practicable, solar energy systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
12. Maintenance of natural vegetation and wildlife.
  - a. Vegetation shall be maintained below the solar panels. The ground shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation. The Planning Board shall encourage or require co-usage of the lands under and around installed solar panels for small livestock grazing or crop production without damaging or interfering with solar facilities.
  - b. Native vegetation shall be maintained to the extent practicable by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
  - c. The Planning Board may require methods to mitigate adverse impacts to wildlife, wildlife habitats, travel corridors or migration routes. These may be but are not limited to use of LED lights to avoid attracting insects, netting to exclude birds from panel area, visual deterrence, use of roosting or perching prevention, fencing that allows for an eight (8) inch to twelve (12) inch space at the bottom that allows wildlife passage, or other use of lights, colors or decoys.
13. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of 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 rightof-way.
14. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
15. Signage.

- a. No signage or graphic content shall be displayed on the solar energy systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight (8) square feet.
  - b. As required by National Electric Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all padmounted transformers and substations.
16. Lighting. Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
17. Ownership Changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Code Enforcement Officer of such change in ownership or operator within thirty (30) days of the ownership change.

#### E. Large-scale solar energy systems.

1. A Large-scale solar energy system may be permitted upon approval of a Special Use Permit with Site Plan approval subject to the terms and conditions of this Section and Articles IX, Site Plan Review and X, Special Use Permits of this Chapter.
2. Community benefit. The Town of Canton has established that there shall be a community benefit to maximize the benefits of a solar project to the Town of Canton and its residents. The benefit shall be determined via an agreement negotiated between the Town and the developer/owner.
3. Protection of Agricultural Resources.
  - a. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Any solar energy system located on farmland that consists of Prime Farmland, Prime Farmland if "well-drained" or Farmland of Statewide Importance shall not exceed thirty-five (35) percent of the entire lot.
  - b. Removal of any prime agricultural soil from the subject parcel is prohibited.
  - c. Proposed large-scale solar energy systems shall minimize the displacement of prime soils that are in active agricultural production. "Displacement" shall mean the discontinuation of agricultural production.
  - d. Tiled farmland shall be avoided in siting large-scale solar systems.
  - e. To the maximum extent practicable, solar energy systems located on Prime Farmland shall be constructed in accordance with the construction requirements of New York State Department of Agriculture and Markets.
  - f. There shall be a designated environmental monitor on site whenever construction or restoration work is occurring on agriculture land and shall

coordinate with New York State Department of Agriculture and Markets, Division of Land and Water Resources, to develop a schedule for inspections and ensure compliance with the Department's most current Guidelines for Agricultural Mitigation for Solar Energy Projects.

- g. Site Plan requirements. The site plan shall include a layout of current conditions, which includes the location and extent of prime soils, prime soils if drained, soils of statewide importance, and shall also depict the location and extent of current agricultural uses on the land (e. g rotational crops, hay land, un/improved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed. The site plan shall include a cross section of subsurface foundations that will be used for the solar array.
4. Height and setback restrictions.
- a. The maximum height for freestanding solar panels shall not exceed twenty (20) feet in height above the ground.
  - b. The minimum setback from property lines shall meet the setback of the RRural District for a primary structure as required in Schedule B, unless adjacent to a residential lot. The setback from adjacent residential parcels shall be 100 feet. In the event that string inverters are not used, central inverters shall have a minimum setback of 500 feet from residential dwellings.
5. Design standards.
- a. Racking system. Solar panels shall be mounted on torque tube, single access trackers that will provide sufficient clearance above finished grade so that farm implements may be used to maintain the site underneath.
  - b. Inverters. To minimize noise disturbance to neighboring residential uses, string inverters shall be used instead of central inverters.
  - c. Access Aisles. The width of access aisles between solar panels shall provide sufficient room so that farm implements may be used to maintain the site.
  - d. Fencing Requirements.
    - (1) All mechanical equipment, including any structure for storage batteries, shall be enclosed by eight (8) foot tall, agricultural mesh livestock fencing with steel posts mounted twenty feet (20) apart, with a selflocking gate to prevent unauthorized access.
    - (2) All fencing shall have a six (6) inch space at the bottom that allows for native wildlife passage unless such fencing shall be utilized for livestock grazing or animal husbandry as a dual use of the property. The Planning Board may at its discretion direct the applicant to increase that gap to eight (8) inch to twelve (12) inches for perimeter fencing.
    - (3) Solid Fencing may be used to provide screening from adjacent properties and roads as required in subsection 5.c below and shall be maintained for the duration of the lease.
  - e. Anti-Glare. All solar collectors and related equipment shall be surfaced, designed, coated with anti-reflective materials, and sited so as not to reflect glare onto adjacent residences and roadways. Solar collectors and other facilities shall be designed and located in order to minimize reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads. A glare analysis may be required by the Planning Board.
  - f. Screening.

- (1) The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing (e.g. public parks, roads, trails). To the greatest extent feasible, large-scale solar systems shall use natural landforms and vegetation for screening.
  - (2) All solar energy systems shall be screened with a vegetative buffer or landscaping from all streets and adjacent residential uses. Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the facility and accessory structures from roads, neighboring residences, and other uses. Any existing tree or group of trees which stands within or near a required planting area may be used to satisfy the screening and tree planting requirements. The removal of tree stands, forested areas, and hedgerows, is prohibited as they are used to diminish the visual impact of the system on neighboring landowners and passersby; serve as snow fences during winter months; and can help minimize water and soil erosion that may be caused by the installation of the system.
  - (3) Landscaped screening shall include evergreen trees appropriate to hardiness zone 3-4a. such as arborvitae, norway spruce, pitch pine, and eastern red cedar at least six (6) feet high at time of planting. At the discretion of the reviewing Board, such vegetative screening may be modified, including the substitution of deciduous trees, when fencing, walls or berms are proposed to be used for screening. The maintenance and care of any new plantings is the responsibility of the owner; they shall be watered regularly in the first year of planting during extended periods of dry weather, and in the event of dying, shall be replaced with a comparable diameter at breast height (dbh) tree. At the end of the lease, the removal of these plantings shall be excluded from the decommissioning plan.
- g. Noise Mitigation. A noise mitigation plan shall be prepared to address adverse noise levels that are identified in the noise analysis. Said plan shall incorporate the NYS Department of Environmental Conservation Noise Program Policy's best management practices to reduce noise.
- h. Stormwater Management. A plan for clearing and/or grading the site and Stormwater Pollution Prevention Plan (SWPPP) for the site must be included. The large-scale solar energy system shall be designed with the ground cover as pervious to the maximum extent practicable so that stormwater infiltrates as sheetflow across the system. If solar panels are constructed in such a manner as to promote effective infiltration of rainfall the solar energy system may be considered pervious for stormwater pollution prevention purposes. Other structures such as but not limited to transformers, buildings, or paved entrance roads shall still be considered impervious. The following criteria shall be used to establishing a solar energy system as pervious cover:
- (1) Panels must be positioned to allow water to run off their surfaces.
  - (2) Soil with adequate vegetative cover must be maintained under and around the panels.
  - (3) The area around the panels must be adequate to ensure proper vegetative growth under and between the panels.

- (4) Wetland Protection. No solar energy system shall be installed on a designated wetland as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, or other governing body. Wetlands considered jurisdictional for the state must go through Article 24 permitting process.
- i. Maintenance of natural vegetation and wildlife.
  - (1) For areas within the fenced area that will not be used for agricultural activity, native vegetation shall be maintained to the extent practicable by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
  - (2) The Planning Board may require methods to mitigate adverse impacts to wildlife, wildlife habitats, travel corridors or migration routes. These may be but are not limited to use of LED lights to avoid attracting insects, netting to exclude birds from panel area, visual deterrence, use of roosting or perching prevention, fencing that allows or other use of lights, colors or decoys.
- j. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of eighteen (18) feet. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction. Pervious roads shall be comprised of two-inch (2") crushed stone with geogrid material beneath the stone.
- k. All on-site utility and transmission lines shall, to the greatest extent feasible, be placed underground. Any above ground transmission lines that are used to accommodate the facility shall require utility poles that are spaced wide enough and tall enough to provide eighteen (18) feet clearance as measured from the shortest distance between the electrical lines and final grade to avoid interfering with farm machinery and equipment.
- l. Large-scale systems shall be constructed in a fashion so as to not obstruct solar access to adjacent properties.
- m. Any exterior lighting installed within the facility shall be downcast and dark sky compliant with recessed bulbs and full cut off shields.
- n. For adjoining arrays, the number of features installed for the facility should be consolidated and kept to a minimum, such as the use of shared access roads and fencing.
- o. Signs.
  - (1) A sign not to exceed twelve square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
  - (2) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations not to exceed four (4) square feet.
- p. Safety.
  - (1) The owner/operator shall provide evidence that a copy of the Site Plan application has been submitted to the Canton Fire Department or Fire Department of jurisdiction.
  - (2) All means of shutting down the photovoltaic solar energy system shall be clearly marked on the Site Plan and Building Permit applications.

- (3) To minimize cybersecurity threats to the electrical grid, submit a description of the cybersecurity software or programming that will be installed where electronic information is exchanged between the array and the utility's distribution control system.
  - (4) If a piece of equipment meets the definition of oil-filled operational equipment at 40 CFR part 112.2 (e.g. transformers, capacitors and electrical switches), it shall comply with the secondary containment procedures of that regulation.
6. Ownership Changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the Special Use Permit, Site Plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Code Enforcement Officer of such change in ownership or operator within thirty (30) days of the ownership change.
7. Decommissioning Plan. An application for a large-scale solar energy system shall include a Decommissioning Plan. Removal of a large-scale solar energy system must be completed in accordance with the Decommissioning Plan. Prior to removal of a large scale solar energy system, a demolition permit for removal activities shall be obtained from the Town of Canton. a. The Decommissioning Plan shall:
  - (1) Specify that after the large-scale solar energy system will no longer be used, it shall be removed by the owner and/or operator or any subsequent owner/operator and shall include a signed statement from the applicant acknowledging such responsibility. The application shall disclose the lease start date, length of the original lease, and number of options and timeframes if the lease is renewed.
  - (2) Demonstrate how the removal of all infrastructure (including but not limited to: aboveground and below ground equipment, structures, cabling and foundations, utility poles, access roads and fencing not located along lot lines) and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. In areas where agricultural production will resume, revegetation shall include species. The reclamation of land when the large-scale solar energy system is decommissioned shall include the removal of rock, construction materials and debris to a depth of four (4) feet, the decompaction of soils to a depth of eighteen (18) to twenty-four (24) inches, the installation of replacement drain tile, regrading and reseeding the site to its original condition prior to the project construction.
  - (3) Include photographs or archival color images of the proposed site plan area for large-scale solar energy system. Such information must, in aggregate, adequately portray the entire property for the purpose of future reference when soil and vegetation remediation of the property occurs.
  - (4) State that disposal of all solid and hazardous waste shall be in accordance with local, state and federal waste disposal regulations.



- (5) Provide a cost estimate detailing the projected cost of executing the Decommissioning Plan, subject to third party verification at the developer's expense, if required by the Town.
  - (6) State that the terms of the decommissioning plan shall be binding upon the owner or operator or any of their successors, assign or heirs.
  - (7) State that the town, its officials, employees, agents or contractors, shall have the right of access to the site, pursuant to reasonable notice, to effectuate or complete removal and decommissioning.
  - (8) Provide an expected timeline for decommissioning within the 365-day period set forth below.
  - (9) Include a statement that you will notify the Town within thirty (30) days of a change in ownership and the contact information of the new owner.
  - (10) Include in the event of ownership change, the applicant will submit a Special Use Permit.
  - (11) Provide a letter from a solid waste facility indicating today they would agree to accept the waste/recyclables from the project site.
  - (12) State that at least sixty (60) days prior to the end of each successive three-year period after the execution of this agreement, the owner shall provide the Town with an updated Decommissioning Plan setting forth an updated estimate for the decommissioning of the project., which updated estimate shall be subject to review and approval by the town, which approval shall not unreasonably be withheld, conditioned, or delayed. Within thirty (30) days after the Town's approval of the updated estimate, the surety shall be changed to reflect the updated estimate approved by the Town for such decommissioning of the project. Any such updated and approved decommissioning plan shall be deemed the "Decommissioning Plan" hereunder. For avoidance of doubt, the updated estimate will use the estimated decommissioning cost as a template in the updated Decommissioning Plan.
8. Decommissioning Cost Estimate. Include an itemized decommissioning cost estimate based on the actual quantities of equipment and materials that will be removed from the site (e.g. solar panels, mounting racks and steel supports), and the associated labor cost to dismantle the equipment and load it onto a haul truck for transport to a permitted disposal facility. The cost estimate must also include the associated equipment rental fees, hauling and material disposal costs (i.e., tipping fees). The cost estimate shall not deduct the salvage value of the system. The decommissioning cost estimate must be based on the use of prevailing wage rates in the event that the Applicant abandons the project, and the Town needs to conduct the removal.
- a. Decommissioning Bond. Prior to issuance of a Building Permit for a largescale solar energy system, the owner and/or operator of the solar energy system shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the large-scale solar energy system is abandoned. The amount of the surety required under this Section

shall be 125% of the projected cost of removal of the solar energy system and restoration of the property with an escalator of two percent (2%) annually for the life of the solar energy system. Acceptable forms shall include, in order of preference: cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of

the large-scale solar energy system should the system be abandoned. In such case, the Town Code Enforcement Officer shall then provide written notice to the owner or operator to remove the large-scale solar energy system, and the owner or operator shall have one (1) year from written notice to remove the solar energy system including any associated accessory structures and/or equipment and restore the site to a condition approved by the Planning Board. If the owner, operator applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Board, all costs of the Town incurred to enforce or comply with this condition shall be paid using the surety provided by the applicant.

9. Abandonment and Removal.

- a. In the event that construction of the large-scale solar energy system has been started but is not completed and functioning within eighteen (18) months of the issuance of the final Site Plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 365 days. If the owner and/or operator fail to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan. The decommissioning plan must be completed within 180 days of notification by the Town to implement the Decommissioning Plan.
- b. A large scale solar energy system shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period.
- c. Upon cessation of operations of a large-scale solar energy system for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to eighty percent (80%) of approved capacity or implement the Decommissioning Plan.
- d. Applications for extensions of the time periods set forth in this Subsection of no greater than 180 days shall be reviewed by the Town Board.
- e. Upon recommendation of the Code Enforcement Officer, the Town Board may waive or defer the requirement that a large-scale solar energy system be removed if it determines that retention of such facility is in the best interest of the Town.
- f. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use the financial surety posted by the owner and/or operator to decommission the site, or it may proceed with decommissioning at its own expense and recover all expenses incurred for such activities from the

defaulted owner and/or operator. Any costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

- g. If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof the property of the Town, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within thirty (30) days of the damage, completely replace or repair all damage to the satisfaction of the Town. F. Special use permit requirements.
1. Public hearing notification of neighbors. Notwithstanding §70-16.B regarding public hearing notifications, for all public hearings associated with a large-scale solar energy system project, a notice of such public hearing(s) shall be sent by standard U.S. mail to all property owners within 1,000 feet of the property affected by the proposed application, including properties on the opposite side of the street or highway.
2. In addition to the Special Use Permit and Site Plan requirements for all activities in this Chapter, the following shall be provided to the Town:
  - a. Coordination with utility and verification of notification. Any foreseeable infrastructure upgrades shall be documented and submitted in the form of a coordinated Electrical System Interconnect Review with the utility. Off-grid systems are exempt from this requirement.
  - b. Name, address, and contact information of the applicant, property owner(s), and agent submitting the project. In the event ownership of the facility changes hands, or if the lease is terminated, notification shall be sent to the Town within thirty (30) days of the transfer or termination date. The notice shall include the name and contact information of the new owner(s). The new owner shall then be bound by the terms of the original agreement.
  - c. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
  - d. Blueprints signed and dated by a professional engineer or registered architect. Plans shall show the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation, existing or proposed access, gates, parking areas, mounting systems, inverters, panels, fencing, proposed clearing and grading of all sites involved, and proposed buffering and screening. Blueprints shall include:
    - (1) The limits of the leased areas.
    - (2) A zoning data table comparing zoning requirements to the proposed dimensions.

- (3) Onsite slopes between five percent (5%) and ten percent (10%), and greater than ten percent (10%) shall be labeled.
  - (4) Grading contours.
  - (5) Wetlands
  - (6) Details and locations of the large-scale project components (e.g., battery storage enclosure, inverters, stormwater practices, level spreaders, fencing etc.). (7) Access easements
  - (8) Staging areas.
  - (9) Signs: location, wording and dimensions.
  - (10) Interconnections and transmission lines: location, schematic, shut-off location within the interconnection poles & notes on buried utilities.
  - (11) A statement that sampling, stockpiling, spreading, seeding, and site restoration is to be performed in accordance with New York State Department Agricultural and Markets Guidelines for Solar Energy Projects Construction Mitigation.
  - (12) A statement the removal of any prime agricultural soil from the subject parcel is prohibited.
  - (13) Access road location, dimensions, installation of crushed stone material and geogrid/geoweb material, turning radii.
3. Property Operation and Maintenance Plan: For the duration of the lease, a property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, fence maintenance, etc. The property shall maintain a neat and orderly appearance in a manner consistent with all properties within the Town of Canton. Vegetation shall be maintained below the solar panels. The ground shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation. The Planning Board shall allow for or require dual usage of the lands under and around installed solar panels for a compatible agricultural use such as small livestock grazing, animal husbandry or crop production without damaging or interfering with solar facilities. The plan Operation and Maintenance Plan shall include:
- a. A description or narrative of activities including dual agricultural use, including seasonal start and end dates as applicable, and frequency.
  - b. The responsible parties who will undertake—maintenance and/or the agricultural use including contract details.
  - c. The investments that will be made by the owner to ensure the viability of the dual agricultural use, as applicable, for the duration of the lease.
  - d. Stormwater practices used on site and common issues for each practice.
  - e. Inspections of stormwater structures for the lifetime of the solar facility
  - f. A map to indicate the limits of maintenance for the operator/owner.
  - g. Future land use plans for the remaining portions of the property.
  - h. A copy of the Maintenance Agreement to the Board as a condition of final approval.

4. Environmental monitoring. At the owner's expense, the owner shall hire or designate an Environmental Monitor for the duration of the lease who will be responsible for inspecting and monitoring stormwater management, noise, property maintenance, and landscaping of the solar energy system. Said monitor shall record observations from the onsite inspections and shall notify the owner and Town of issues that require correction, repair or replacement.
5. Additional requirements for large scale solar energy systems:
  - a. Stormwater runoff calculations, drainage plan, clearing and grading plan. The clearing and grading plan shall also include methods to stockpile, reduce erosion of, and reuse all topsoil from the site. If one acre or more of land is to be disturbed, the applicant shall also submit a Stormwater Pollution Prevention Plan consistent with New York State Department of Environmental Conservation requirements. Clearing and/or grading activities are subject to review by the Planning Board as part of Site Plan Review and shall not commence until the issuance of site plan.
  - b. Noise. A noise analysis performed in accordance with the New York State Department Environmental Conservation Noise Program Policy shall be conducted at the nearest property line and include details of any proposed noise that may be generated by inverter fans, or other noise generating equipment that may be included in the proposal.
  - c. Identification of wildlife species that may use the parcel including potential wildlife travel corridors, migration paths (including both ground and aerial pathways), or critical habitats. The site plan and supporting application shall include an on-site evaluation of wildlife species that may use or migrate through the project site. Any lake or waterbody within one-half ( $\frac{1}{2}$ ) mile shall also be identified on the site plan.
  - d. Visual impact assessment. Photo simulations showing the proposed largescale solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed large-scale solar energy system, solar collectors, and all other components. Photo simulations may be required to be provided from specific roads or other public areas that may be impacted as part of the Special Use Permit review. In the course of its review of a proposal for development of a large-scale solar energy system, the Planning Board may require an applicant to submit a viewshed analysis that meets the procedures identified within the New York State Department of Environmental Conservation's SEQRA publication entitled "Assessing and Mitigating Environmental Impacts."
  - e. The Applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the proposed largescale solar energy system at its maximum peak design. A location map of the connection point to the grid shall be provided along with a description of any easements or right-of- ways, clearing, infrastructure, appurtenances, and equipment that may be necessary or required to connect to the grid. G. Fees.

1. The fees for a Special Use Permit, Site Plan Review, and Zoning Permit for a largescale solar energy system shall be set from time to time by Town Board resolution.
2. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an Article 10 or 94C Application, if applicable, an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 or 94C Application should awarded intervenor funds be insufficient to fully participate in the Article 10 or 94C Process or should intervenor funds be otherwise exhausted. Following the grant or denial of the state or local application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

**§ 70-73. Transfer Stations / Recycling Facility.**

- A. No person shall establish, operate or maintain a transfer station and/or recycling facility in any area of the Town until a Special Use Permit and Site Plan approval have been authorized by the Planning Board and the operator has obtained a New York State Department of Environmental Conservation (NYS DEC) Operating Permit. All transfer stations and/or recycling facilities shall comply with 6CRR-NY Solid Waste Management Facilities regulations and the following requirements.
- B. Location. The following setback requirements shall apply to all transfer stations and/or recycling facilities: Said use shall not be located within:
  1. Two hundred fifty (250) feet from the center of any highway.
  2. Five hundred (500) feet from any body of water and shall have a twenty-five (25) foot vegetative barrier from said body of water.
  3. Two hundred fifty (250) feet from the property line of any adjoining parcel.
  4. Seven hundred (700) feet buffer distance from a residential use, hospital, public park, or school.
  5. Four hundred (400) feet buffer distance between transfer stations.
- C. Fencing. A fence shall be erected that restricts vehicle access to the site, and shall have a gate, which shall be closed and locked except during the working

hours of said use. Such fence shall not be erected nearer than 100 feet from the centerline of a public highway. All transfer and recycling materials shall be stored within the setback boundaries except during transportation of same in the reasonable course of the business.

#### **§ 70-74. Wind Energy Conversion System (WECS), Small**

- B. All Small Wind Energy Systems shall comply with the following standards.
- C. Applications for Small WECS Special Use Permits shall include the following additional information:
  - 1. Site plan of the tower site, including but not limited to showing the location of the tower in relation to other structures and lot lines, topography of the site, location of trees and other landscape elements.
  - 2. Ownership and land use information within a 1,000 foot radius of the location proposed for each tower.
  - 3. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
  - 4. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the electrical code.
  - 5. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
  - 6. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electric generator unless the applicant does not plan to connect the system to the electric grid and so states in the application.
  - 7. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
- D. A Small WECS system shall be located on a lot a minimum of one (1) acre in size.

E. Small WECSs shall be used primarily to reduce the on-site consumption of electricity.

F. Tower height shall not exceed one hundred (100) feet. However, setbacks from all property lines shall be maintained, at a minimum, at one and one-half (11/2) times the total height of the tower.

1. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

G. No portion of the tower blade sweep shall extend within twenty (20) feet from the ground.

H. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

I. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, trails). To the greatest extent feasible, a Small WECS shall use natural landforms and vegetation for screening.

J. Exterior lighting on any structure associated with the system shall not be allowed, except that which is specifically required by the Federal Aviation Administration.

K. All on-site electrical wires associated with the system shall be installed underground, except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.

L. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.

M. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing



stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.

- N. At least one (1) sign shall be posted on the tower at a height of five (5) feet, warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system's or tower's manufacturer logo may be displayed on a system generator housing in an unobtrusive manner.
- O. Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:
  - 1. Tower-climbing apparatus located no closer than twelve (12) feet from the ground.
  - 2. A locked anti-climb device installed on the tower.
- P. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.
- Q. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- R. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least twenty (20) feet above the highest structure or tree within a 200-foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- S. All small wind energy system tower structures shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code.
- T. All Small Wind Energy Systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

- U. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to both inside and outside of agricultural districts. For WECS associated with agricultural operations in an agricultural district, no permits shall be required, but Site Plan Review will be required.
- V. No permit or other approval shall be required under this Chapter for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.
- W. Noise. Except during short-term events, including utility outages and severe windstorms, a Small WECS shall be designed, installed and operated so that noise generated by the system does not exceed the 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.
- X. Abandonment of Use. A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this Section or with any and all conditions that may be attached to the granting of any Building Permit shall constitute grounds for the revocation of the permit by the Town.

**§ 70-75. Wireless Communications Facilities.**

A. Applicability.

- 1. No wireless communications facility shall hereafter be erected, moved, reconstructed, changed, or altered without conforming to this Section. No existing structure shall be modified to serve as a wireless communications tower unless conforming to this Section.
- 2. Exemptions. The following uses and activities are exempt from the requirements of this Section however, other permits may be required from the Code Enforcement Officer:
  - a. Replacement, repair, rebuilding, or upgrading of existing wireless communication facilities to current engineering, technology, or communications standards so long as such facilities are not increased in height by more than twenty (20) feet or ten percent (10%).
  - b. Antennas used solely for residential household television and radio reception.
  - c. Amateur HAM radio antennas as defined in this Chapter with a height of forty-five (45) feet or less.

B. Administrative review and required approvals.

1. Application for shared use (collocation) on an existing wireless communications tower.
  - a. At all times, collocation or use of existing wireless communication facilities shall be preferred to shared use of other existing tall structures or construction of new wireless communication facilities. For purposes of this Section, existing wireless communication facility shall mean a wireless communication tower facility in existence at the time an application for collocation is submitted to the Code Enforcement Officer.
  - b. An additional antenna is permitted upon issuance of a Zoning Permit if such antenna will not extend the total tower height by more than twenty (20) feet or ten percent (10%). The Zoning Permit application must include the following:
    - (1) Documentation of intent from the owner of the existing wireless communication facility to allow shared use.
    - (2) A certified structural analysis report from a NYS-licensed engineer certifying that the proposed collocation will not diminish the structural integrity and safety of the existing tower or explaining what modifications, if any, would be required to certify the above. The height of the new antenna shall not extend above the height of the existing structure by more than twenty (20) feet.
    - (3) A copy of the Federal Communications Commission (FCC) license for operation of the new equipment.
  - c. An additional antenna that extends the total tower height by more than twenty (20) feet shall require Site Plan Review. The Site Plan Review application must include the following:
    - (1) Documentation of intent from the owner of the existing telecommunication facility to allow shared use.
    - (2) Documentation that the height extension of more than twenty (20) feet is necessary and that the height extension is the minimum required to provide the proposed area with wireless communication services.
    - (3) Documentation of tower setbacks from lot lines. The extended tower height must meet the minimum setback from any property line at a distance at least equal to the tower height. The minimum setback requirements may be increased at the discretion of the Planning Board as part of the Site Plan Review procedures, or it may be decreased in those instances where the owner/applicant has previously approved plans for a tower design in such a manner as to collapse within a smaller area.
    - (4) A certified structural analysis report from a NYS-licensed engineer certifying that the proposed collocation will not

diminish the structural integrity and safety of the existing tower or explaining what modifications, if any, would be required in order to certify the above.

- (5) A copy of the FCC license for operation of the new equipment.

## 2. Permitting process for new wireless communications facilities.

- a. A Special Use Permit and Site Plan Review shall be required for the placement of a wireless communications facility in or on an existing tall structure other than an existing wireless communications tower and for the construction of a new tower. The application process for Special Use Permits is provided in Article X and the additional criteria set forth below in Section D.
- b. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers, including: an inventory of facilities within the Town and surrounding municipalities, outlining opportunities for shared use as an alternative to the proposed wireless communications tower; copies of written requests and responses for shared use based on the inventory; and, if applicable, demonstration of the impracticality of upgrading or expanding an existing site within the Town or surrounding municipalities.

### C. Standards for new wireless communications tower plans.

Every antenna facility location plan shall demonstrate compliance with each of the following standards:

1. The antenna facility complies with any applicable regulations promulgated by the Federal Communications Commission, including regulations regarding radio-frequency emissions.
2. The antenna facility is placed, designed and finished in a manner which minimizes its visual impact on surrounding properties.
3. The antenna facility is the minimum height above grade necessary for the provision of the wireless service within the Town of Canton.
4. The antenna facility is of sufficient mechanical and electrical design to allow for the co-location of at least one additional antenna facility or the co-location of municipal wireless service.
5. The antenna facility minimum set back from all boundaries shall be the distance of the height of the antenna, including support structure.

6. The antenna facility, including support structure, shall not exceed a height of 180 feet, not including lightening rod.

D. Site and Tower Design.

1. Aesthetics. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

- a. The Planning Board may require a mono-pole or guyed tower (if sufficient land is available to applicant) instead of a freestanding communications tower.
- b. The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the communications tower. Existing onsite trees and vegetation shall be preserved to the maximum extent possible.
- c. The Planning Board may require the applicant to show that it has made good faith efforts to co-locate on existing towers or other available and appropriate structures.
- d. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be painted a galvanized finish or matte gray unless otherwise required by the FAA.
- e. No tower shall contain any advertising devices.

2. Traffic, Access and Safety.

- a. A road turnaround and one parking space shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

- b. All communications towers and guy anchors, if applicable, shall be enclosed by a fence or structure not less than eight (8) feet in height.
- c. The applicant must comply with all applicable State and Federal Regulations including but not limited to FAA and FCC regulations.
- d. Signage shall be provided, permanently affixed to the structure and as visible as practicable from the access approach, providing the name and address of the facility operator and providing emergency contact telephone number.
- e. The owner of the facility shall dismantle the communications facility in its entirety within ninety (90) days of the cessation of operations at the tower.

E. Radio Frequency Effects. The Town of Canton recognizes that federal law prohibits the regulation of cellular and PCS communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions.

**§70-76 through §70-80. Reserved.**

## **Article VII: Supplemental Regulations in all Districts**

### **§ 70-81. Fences and walls.**

Fences erected on lots in the RA, H and MU zoning districts shall adhere to the following, unless otherwise specified:

- A. Fences may be erected, altered, or reconstructed to a maximum height of four (4) feet in the front yard and eight (8) feet in the side or rear yard.
- B. Fences, hedges and walls are exempt from the setback standards of §70-34 A.
- C. No fence shall cause an obstruction to vision at an entrance or exit on a road or at an intersection and shall be set back from property lines at least four (4) feet.
- D. Fences cannot be made from anything non-dimensional, such as slab wood and plywood, pallets, tires, or construction fencing unless associated with a

construction project, or any materials that could pose a threat to human safety, including electrified wire, barbed wire or razor wire.

- E. Temporary snow fencing is permitted but shall be removed from front and side yards by the 1<sup>st</sup> of May.
- F. All fences shall be maintained in good repair, structurally sound with any wood surface other than decay resistant wood being protected from the elements and decay by painting or other protective covering or treatment.
- G. Finished sides must face any adjacent lot.

**§ 70-82. State, Federal or Local Government designated Historic Building Protection.**

- A. Buildings on the State and/or National Register of Historic Places or a locally designated building or historic district so designated by the Town Board shall require Site Plan Review prior to issuing a Building Permit for the following activities:
  - 1. Any activity requiring a Building Permit.
  - 2. Demolition or substantial exterior alteration resulting in an essential change in the building.
- B. As part of the Site Plan Review, the Planning Board must demonstrate the following requirements in its findings:
  - 1. The building or use must be consistent with the architecture style and historic significance of the site.
  - 2. The building or use may not encroach, diminish or otherwise lessen the significance of other structures or uses within the area.
  - 3. To demolish, evidence of construction or structural problems must be shown to preclude any reasonable effort at rehabilitation, restoration or preservation.
- C. The Planning Board may consult experts to aid in demonstrating the requirements of Subsection B above.

**§ 70-83. Landscaped screening and buffers.**

- A. Applicability.

The following land use development must provide screening and buffering on the perimeter of the site:

- 1. All nonresidential uses in the C-Commercial Zoning District must provide perimeter screening and buffering along property boundaries that abut lots zoned RA.

2. Uses that are specifically required to provide perimeter screening and buffering as part of any additional regulations required in Article VI, Additional Regulations of Specific Uses, shall meet the standards of this §70-83.

B. Standards for a landscaped screening or buffer.

1. For all required landscape screening and buffering, the plant choice, required mature height and width, and placement of such buffers and screening shall be based upon the site topography, distance from street intersections, buildings and uses, and other existing conditions and proposed improvements.
2. The selection of plantings shall be compatible with U.S. Department of Agriculture Plant Hardiness Zone 4, soil types, and water availability.
3. Trees and shrubs selected for planting shall be deer resistant, tolerant of salt or sand applications, and not consist of species (such as maple and ash varieties) that are highly vulnerable to the long-term threat of invasive species such as the Emerald Ash Borer (EAB), the Asian Longhorn Beetle (ALB), or Spotted Lantern Fly.
4. To avoid conflict with above-ground utilities, trees planted within twenty-five feet (25') of overhead wires should conform to the planting guidelines provided by the Code Enforcement Officer and on the Town website.
5. The planting of coniferous evergreen trees at the corners of curb cuts and streets is prohibited unless stepped back to meet the requirements of §7035, Visibility at Intersections, as they may impede the line of site of drivers who are exiting the property.
6. Each planting area shall be a minimum of five (5) feet in width.
7. A screen of at least four (4) feet in height at the time of planting, that results in a screening of at least six (6) feet when fully mature and creates a noise and sight obscuring buffer that is any one or a combination of the following methods:
  - a. A solid row of evergreen trees or shrubs.
  - b. A solid row of evergreen trees and shrubs planted on an earthen berm an average of three (3) feet high along its midline.
  - c. A combination of trees or shrubs and fencing or wall.
6. Breaks in perimeter landscaping for pedestrian access may be required as determined by the Planning Board during Site Plan Review.

C. Surface parking lot buffering.

1. Applicability.

The requirements in this Section apply to all surface parking lots of ten (10) spaces or more located adjacent to a public right-of-way or visible to the public right-of-way from up to fifty (50) feet. For those land uses requiring perimeter screening as specified in §70-83.B, the standards of this Section C shall not apply as perimeter screening is already required.

2. Requirements.

A landscape strip, as described below, shall be provided on the property between the parking lot or access drive and a public right-of-way. The landscaped strip may not include any paved area except pedestrian sidewalks or trails. Shrubs



must be maintained at a maximum height of thirty-six (36) inches and comply with the requirements of §70-35, Visibility at Intersections.

Any of the following landscaped strip treatments may be used singularly or in combination:

- a. A minimum six (6) feet wide landscape strip between the right-of-way and the parking lot, to be planted with a minimum of one (1) understory tree and eight shrubs per twenty-five (25) linear feet of frontage, excluding driveway openings.
- b. A berm, the top of which is at least two and one-half (2.5) feet higher than the elevation of the adjacent parking lot pavement and plant with a minimum of one (1) understory tree and five (5) shrubs per twenty-five (25) linear feet of frontage, excluding driveway openings.

D. Parking area landscaping.

1. For parking areas with twenty (20) or more parking spaces the following standards shall apply (see Figure 1 in §70-84 for example illustration):
  - a. A minimum of ten percent (10%) of the total surface area of all parking spaces, drive aisles, and interior landscape must be planted with landscaping. Such plantings shall not be located in designated snow storage locations. Parking lot perimeter landscaping required by Subsection C above is not counted toward the minimum interior landscape requirement.
  - b. Shade shall be provided for at least twenty percent (20%) of the paved parking area using the following standard:
    - (1) One large shade tree for every 1,500 square feet of parking area. No tree that will be less than thirty (30) feet in height at maturity shall be considered a shade tree.
    - (2) The use of a single tree species throughout the parking area is not encouraged.

E. Maintenance.

1. Any plant material used in the landscaping project shall be maintained in a healthy growing condition. The property owner bears the responsibility for maintenance of required landscaping. The Town has the authority to order that dying or dead landscaping be replaced by the current landowner or developer. The Town will work with a property owner to establish a realistic replanting plan when landscaping required by this Section is lost due to situations beyond the control of the property owner or other related circumstances.
2. If requested, the applicant shall submit a maintenance agreement describing methods of compliance with the requirements of this Section, which shall be approved as part of Site Plan Review. Adherence to such maintenance agreement shall be a condition of Site Plan approval.

3. Action upon non-compliance: failure, neglect or refusal of owner to perform the required maintenance action shall be taken in accordance with the enforcement provisions of this Chapter.

F. Alternative landscaping plan.

Alternative landscaping plans may be proposed where strict application of the requirements in this Section would prohibit reasonable development of a property. The Planning Board may consider the topography, shape, size, or other natural features of the property or design features of the development when considering the suitability of a proposed alternative landscaping plan. Another technique that may be used in alternative landscaping plans is the enhancement of landscaping in a nearby area to soften the overall effect of the development, such as improvement of a nearby existing public right-of-way or space.

**§ 70-84. Off-Street Parking.**

A. Purpose.

The purpose of these off-street parking regulations is to provide adequate parking and loading facilities to serve the use or uses of the properties while discouraging the proliferation of surface parking lots, to provide appropriate site design standards for vehicle circulation, non-motorized transportation modes and safe pedestrian movements, and to mitigate the impacts of parking lots on adjacent land uses and zoning districts.

- B. Applicability. The minimum off-street parking and loading requirements of this Section shall be met for any newly constructed building or change in use.

C. Location of off-street parking areas.

1. Off-street parking areas on a residential lot in the R, RA, H, and MU zoning districts may only be located between the front plane of a principal dwelling and the street in a driveway used to access an attached garage or accessory garage located in the side yard or, in the side or rear yards.
2. Parking or storage of recreational vehicles, trailers or boats out-of-doors in the H and MU districts shall be in the rear or side yard only and setback ten (10) feet from any property line.
3. Overnight parking or storage out-of-doors of any vehicle licensed for commercial purposes and with more than two axles shall be prohibited in the RA, MU and H districts.
4. For all building construction in the MU, H, C districts except for the construction single and two-family dwellings, off-street parking shall be located to the side or rear of the principal building; parking to the rear is preferred. On a corner lot, buildings may be located to accommodate up to fifty percent (50%) of offstreet parking on each side.

D. Required Off-street parking spaces.

1. The minimum number of off-street parking spaces required for motor vehicles shall be calculated using the standards in this §70-84 and Schedule C and Subsection D.2 through D.5 below.
  - a. Gross floor areas, for purposes of computing parking requirements, shall be the sum of the horizontal area within the exterior walls of the several floors of a building, excluding basement, cellar and attic areas use.
  - b. When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
  - c. For religious uses and places of assembly in which patrons or spectators may occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such seating facility shall be counted as one seat.
2. For uses not specified in Schedule C, the Planning Board shall establish parking requirements in specific cases consistent with those specified in the schedule below as part of Site Plan Review.
3. For any building having more than one use, off-street parking shall be required for each use unless there is an approved shared parking plan described in Subsection F below.
4. All motor vehicle parking must conform with the current Americans with Disabilities Act (ADA) guidelines and NYS Uniform Code.

<b>Chapter 70 Schedule C: Minimum Parking Space Requirements SF</b>	
= Square Feet                      GFA= Gross Floor Area	
Use	Number of Required Spaces
<b>Residential Uses</b>	
Single-family and two-family dwellings	2 per dwelling unit
Multi-family dwelling	1.5 per dwelling unit
Senior/retirement housing complex	1 per dwelling unit, plus an additional 5% of the total residents' spaces shall be provide for visitors and others
Residential care facility/community residence	1 for every 2 beds, plus 1 for every employee during maximum shift
Dormitories, group dwellings, fraternities and sororities	1 per 2 beds
<b>Community /Services and Institutional Uses</b>	
Club, membership or lodge	1 per 5 members or 1 per 4 seats in largest assembly area, whichever is greater
College, vocational or trade school	1 for each employee on the maximum shift, plus 1 for each 6 students
Community center	1 per 400 SF of GFA



Recreation, indoor	1 per 4 seats
Recreation, outdoor	1 per 4 seats or 10 per playing field, whichever is greater; plus two bus parking spaces
Research/laboratory	1 per 500 SF of GFA
Restaurant, bar, brew pub, tasting room	1 for every 4 seats or 1 for each 100 SF of floor space, whichever is greater
Restaurant – food stand/window walkup window or take-out only	4 spaces plus 1 for each employee on maximum shift
Retail sales establishment, under 10,000 SF/GFA	1 for every 400 SF of GFA plus 1 for each employee on maximum shift
Retail sales and service-related establishments unless otherwise listed in Schedule C; shopping centers; wholesale retail	1 for every 300 SF of GFA
Theater, entertainment venue	1 per 4 seats
Vehicle sales, rental and lease	1 per 1,000 SF or less of outdoor display plus 1 per employee
Veterinarian, office, clinic, hospital	1 per 350 SF of GFA plus 1 for each employee on maximum shift
Warehouse/wholesale distribution	1 per 5,000 SF GFA plus 1 per employee maximum shift

5. Required electric vehicle (EV) charging stations. All newly created off-street surface parking lots with twenty (20) or more spaces shall provide dedicated EV charging stations at a minimum rate of two (2) per twenty (20) surface parking spaces.

6. Horse-drawn buggy parking.

- a. All newly created off-street surface parking lots with twenty (20) or more spaces shall provide, at a minimum, a safe, dedicated area equipped with a post or similar structure for hitching under a tree canopy to accommodate the parking of at least one horse-drawn buggy.
- b. The parking space shall be a minimum of twenty (20) feet in depth and twelve (12) feet wide and, if located in a parking area otherwise dedicated to motor vehicles, shall be located on the perimeter.
- c. Such designated area shall be clearly demarcated and posted with signage.

7. Bicycle parking.

In the MU and C Districts, bicycle parking shall be provided as part of any new off-street surface parking lot or the expansion of an existing off-street surface parking area of ten (10) or more vehicle spaces as prescribed below:

- a. A minimum of two bicycle space shall be created for any new lot or expansion of a lot creating ten (10) or more vehicle spaces.

- b. One additional bicycle space shall be provided for each additional five (5) vehicle parking spaces in addition to the initial space required in Subsection C.7.a above.
- c. Location and design.
  - (1) Required bicycle parking shall be as convenient as motor vehicle parking. Bicycle parking shall be separated from vehicular parking areas to protect parked bicycles from damage. The separation may be accomplished through grade separation, distance, or physical barrier such as curbs, wheel stops, poles, or other similar features.
  - (2) Racks and structures may be ground-mounted or wall mounted, and they must be securely affixed or bolted to the ground or wall.
  - (3) The parking surface shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitted provided there is edging material so the bicycle parking area is clearly demarcated and the rock material is contained.

The maximum number of off-street motor vehicle parking spaces for any use shall not exceed 125% of the number of spaces required in Schedule C. Any fraction of a space may be rounded up to equal one space.

F. Shared parking.

- 1. Shared parking areas with multiple uses is encouraged. In the case of a combination of uses on a single parcel, the requirement for off-street parking spaces shall be the sum of the requirements for the various individual uses, unless it can be established by the applicant to the satisfaction of the Planning Board that staggered hours of use would permit reduction of this requirement.
- 2. An agreement establishing joint use of a parking area, approved by the Planning Board, shall be recorded with the Code Enforcement Officer and the County Clerk's Office.  
Such agreements shall run with the land for all properties with joint use of parking areas and require Planning Board approval for any change or termination.

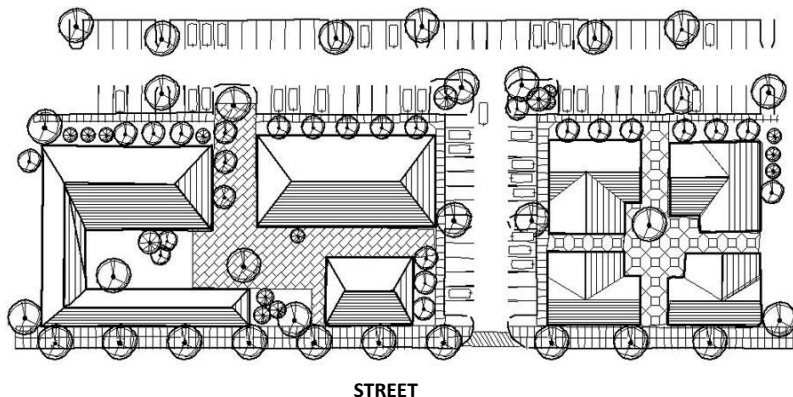


Figure 1: Shared parking lots, located to the side or rear of the building; parking to the rear is preferred. Landscaping strips buffer uses from parking lots.

G. Minimum parking stall and aisle dimensions.

1. All parking spaces (stalls) and drive aisles shall comply with the minimum standards of this Section and Schedule D. Nothing shall prohibit the creation of larger parking spaces. Figure 2 below provides a diagram correlating to Schedule D.

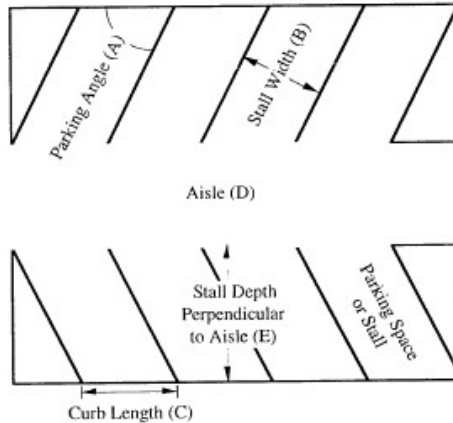


Figure 2: Schedule D parking dimension illustration.

Chapter 70 Schedule D: Minimum Parking Stall and Aisle Lot Dimensions				
Parking Angle (A)	Stall Depth (E)	Stall Width (B)	Aisle Width (One-Way) (D)	Aisle Width (Two-Way) (D)
0° (parallel)	22 feet	8 feet	12 feet	20 feet
30°	18 feet	9 feet	12 feet	22 feet
45°	18 feet	9 feet	12 feet	22 feet
60°	19 feet	9 feet	14 feet	23 feet
90°	18 feet	9 feet	22 feet	23 feet

2. All surface parking areas and parking structures must conform with ADA Standards for Accessible Design and ADA Accessibility Guidelines.
3. A site layout shall include logical connections between building entrances, sidewalks, and parking areas. The need to walk in vehicle-oriented areas, such as travel lanes, entrance drives, loading areas shall be avoided to the extent practicable.
4. Projects expanding surface parking lots that require Site Plan Review shall include areas for snow storage.

H. Parking lot construction and materials.

1. Pavement construction. All parking and driveways shall be constructed using asphalt, concrete, pavers, or other semi-pervious surfaces approved by the Code Enforcement Officer.
2. One of the following types of green infrastructure shall be utilized to reduce impacts associated with parking lots:
  - a. Paving materials with a solar reflectance index (SRI) of at least 29 to reduce the heat island effect.
  - b. Pervious pavement material, such as permeable asphalt, permeable concrete, or permeable pavers to improve stormwater management and drainage.

- c. Recycled content of fifteen percent (15%) or more for improved sustainability. I.

Screening of parking lots.

- 1. Parking lots adjacent to a public right-of-way, including, sidewalk and trails, or visible from the public right-of-way from a distance of up to fifty (50) feet shall meet the landscaped screening and buffering requirements of §70-83.C.
- 2. Parking lots on properties abutting residential lots zoned RA shall provide screening along property lines or parking lot perimeter abutting and/or visible from the residentially zoned lot meeting the requirements of §70-83.B or C.

J. Loading areas.

Every structure constructed after the effective date of this Chapter and used for nonresidential use shall provide sufficient space for the unloading and loading of vehicles. The adequacy of any proposed loading areas shall be considered as part of the Site Plan and traffic circulation review.

**§ 70-85. Motor vehicle access management and driveways.**

- A. Shared access driveways between properties are preferred to reduce curb cuts and traffic conflicts. All infill development on US 11 shall address the ability or opportunity to share a driveway with an adjoining lot as practical. See Figure 1.
- B. All applicants for nonresidential development projects shall address opportunities for creating parking lot connections with adjoining properties to improve traffic flow. Where appropriate, to facilitate traffic flow, the Planning Board may require paved connections between abutting parking areas under different ownerships.
- C. All applications for non-residential development projects with access on Town Highways shall be referred to the Town Highway Superintendent for consideration and input prior to any approvals under the Zoning Law of the Town of Canton.

**§ 70-86. Outdoor lighting**

A. Purpose.

The purpose of this Section is to require and set minimum standards for outdoor lighting that are appropriate for safety, security, and visibility for pedestrians and motorists, while minimizing glare and light pollution.

B. Applicability.

- 1. The lighting standards of this Section shall apply to all new development and expansion of any existing principal structure or parking lot by at least fifty percent (50%), unless otherwise stated in this Section.
- 2. New fixtures installed on existing development shall comply with the standards of this Section.

C. Site Plan requirements.

Outdoor lighting shall be addressed as part of any Site Plan approval by providing the following items:



1. A site plan showing location of all exterior lighting fixtures as they relate to property boundaries, building location(s), parking lot layout, pedestrian paths, adjacent rights-of-way, north arrow, and scale.
2. Lamp type and wattage.
3. Specifications for all proposed exterior light fixtures and poles showing the design and finishes and designation as Illuminating Engineering Society of North America (IESNA) cut-off fixtures.
4. Any other information and data necessary to evaluate the required lighting plan.

D. General requirements.

1. All maximum and minimum lighting levels shall comply with the latest published recommendations of the IESNA.
2. Lighting color and fixture types shall be consistent through the site and shall complement the architecture of any structure and the landscape of the site.
3. Lighting fixtures should accomplish a dual purpose, such as architectural lighting that also provides security, or landscape lighting that also lights adjacent paths, if possible.
4. Lighting fixtures shall be aimed and shielded in a manner that shall not direct illumination on adjacent properties.
5. Light fixture types and design.
  - a. Full cutoff light fixtures must be used in parking areas, along internal streets, and along pedestrian ways. Cutoff luminaires or semi-cutoff luminaires may be allowed in these locations when the overall up light would be less than for full cutoff luminaires. To promote a unified development theme, post top luminaires (also referred to as period lighting) may be used as an alternative if they have built-in reflectors that effectively eliminate up light. Except as provided in this Chapter, all other luminaires must be directed downward and the light source must be shielded so it is not visible from any adjacent property.
  - b. Incandescent light sources of 100 watts or less or other light sources of sixty (60) watts or less that are located at least 150 feet from the lot line of a residential district are exempt from the cutoff requirements.
  - c. There shall be consistency of lighting fixtures adjacent to and visible from the public street on blocks and streets to create a unifying scheme of illumination that is appropriate to the scale of the street and the level of nighttime activity. Lamp styles shall not be mixed along any one block or street.
  - d. Material for light poles. Light poles must be anodized, painted, or otherwise coated to minimize glare from the light source.
6. Maximum height.

The total height of exterior lighting fixtures, including the base, shall be a maximum of twenty (20) feet for parking lots adjacent to nonresidential uses and fourteen (14) feet for all non-parking lots, pedestrian walkways, and parking lots adjacent to residential uses.

7. Illumination requirements.
  - a. The intensity of light on a site shall not exceed the following standards:
    - (1) Illumination in front, side and rear yard, as measured at the property line, that abuts a residential property shall not exceed 0.1 footcandles.
    - (2) Illumination in front, side, and rear yard, as measured at the property line, that abuts a nonresidential use shall not exceed 0.3 footcandles.
8. Installation for lighting conduit shall be placed underground.

## **§ 70-87. Signage.**

### **A. Purpose**

It is the purpose of this section to establish sign regulations to minimize distractions and obstructions, which may contribute to traffic accidents, to protect property values, to create an attractive business climate, to enhance and protect our resources, and the visual quality of the Town.

### **B. Signs exempt from permitting.**

The following signs may be erected and maintained without approval from the Planning Board or fee, provided that such signs comply with all requirements of this Chapter.

1. Official street or highway signs that advertise the local governments and signs erected by the state.
2. Non-advertising signs placed for directions or safety (e.g. rest rooms, telephone, falling ice, no trespassing).
3. Signs denoting the name and address of the occupants of a premises; such signs shall not exceed two square feet in area.
4. Historical site markers, memorial plaques, and cornerstones.
5. Flags, pennants, or insignia of any government when not displayed in connection with a commercial promotion or as an advertising device. Only one flagpole and up to two (2) flags shall be permitted. Flag poles shall not exceed 30 feet in height and flags shall not be greater than sixty (60) square feet.
6. Painted graphics that are murals, mosaics, or any type of graphic art that are painted on a wall or fence and do not contain copy, advertising symbols, lettering, trademarks, or other references to the premises, products, or services that are provided on the premises where the graphics are located or any other premises, are not signs for the purposes of these regulations.
7. Sandwich boards.
8. Window signs meeting the standards of §70-87.D.11
9. Feather flags meeting the standards of §70-87.D.10.
10. Awning and canopy signs over doorways and windows meeting the standards of §70-87.D.12. This shall not include gasoline service station canopies.

11. Temporary signs defined as a sign designed or intended to be displayed for a short period of time. Signs not removed within the timeframes of this Subsection B.11 shall be considered permanent and shall require a permit and shall meet the requirements for all non-exempt signs. Signs that are temporary in nature based on duration of an event, including but not limited to election signs, for sale signs, grand opening event signs, and special event signs, shall be permitted without a permit provided the following standards are met:
  - a. Temporary signs shall be limited to sixty (60) days and shall be removed within forty-eight (48) hours after the advertised event. Temporary real estate or construction signs shall be removed within seventy-two (72) hours of the change in occupancy or project completion.
  - b. Signs shall not be placed in a public right of way, or within ten (10) feet of a roadway.
  - c. Temporary signs may not exceed twelve (12) square feet of sign area in the R, RA, H, MU zoning districts, and may not exceed twenty (20) square feet of sign area in the C zoning district.
  - d. Temporary signs shall not be illuminated, electronic or digitized.
12. Pennants, banners, and streamers are considered temporary signage regardless of design or intent for purposes of this Chapter and shall meet the standards of this Subsection B.11.
13. Directional signs. Signs designating entrances or exits to or from a parking area shall not count toward the maximum cumulative sign area, however, such signage is limited to one sign for each exit and entrance and said signs are limited to a maximum size of four (4) square feet. In addition, each parking area shall be permitted one sign per street frontage that designates identity and restrictions for parking.
14. Bulletin boards or announcement signs. One announcement sign or bulletin board, not exceeding six square feet in area, is permitted either fixed to a wall of the building or located in the required front yard, provided it is set back at least three feet from the interior edge of the sidewalk or ten (10) feet from the edge of pavement when no sidewalk exists, and at least five (5) feet from all other property lines.
15. Signs advertising seasonal roadside stands not part of an agricultural use as defined in this Chapter meeting the requirements below.
  - a. Seasonal roadside stand signs shall be removed by November 1st or the end of the associated season.
  - b. Such signs shall not exceed twelve (12) square feet in sign area nor six (6) feet in height if a freestanding sign.
  - c. Seasonal signs may be off premises. The sign owner must have the written permission of the property owner on which the sign is located. Annual renewal is required, at no charge.

C. Prohibited signs.

1. The following signs are prohibited in the Town:
  - a. Signs with any mirror or mirror-like surface, day glowing, or other florescent paint or pigment.
  - b. Signs animated by means of flashing, blinking, or traveling lights.

- c. Signs that detract from or obstruct public view of a historic buildings or structures.
- d. Signs using of the words "stop," "look," "danger," "caution," or any other word, phrase, symbol, or character that may tend to confuse, mislead, or resemble any governmental or duly authorized sign.
- e. Off-premise signs/billboards except off-premise directional signs as permitted in §70-87.D.13.
- f. Inflatable devices.
- g. Vehicular signs, except as used as temporary signage meeting the criteria of §70-87.B.11 which shall be exempt from this Subsection C. Vehicular signs are defined as any vehicle and/or trailer, truck body to which a sign is affixed in such a manner that the carrying of the sign is no longer incidental to the vehicle's purpose but becomes the primary purpose of the vehicle.

D. General Standards.

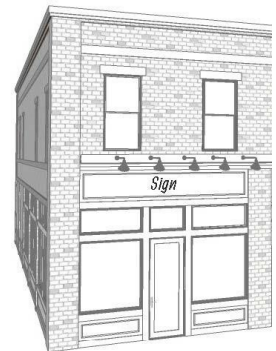
Additional provisions for signs depending on sign type and location are provided in Subsection E and Schedule E.

1. Sign area calculation.
  - a. Sign display area. The area of a sign shall be determined by the smallest rectangle that encompasses all letters or symbols that make up the sign together with the area of any background of a different color or material than the general finish of the building, whether painted or applied. For the purposes of calculating total sign display area, only one side of a two-sided or double-sided sign shall be counted as long as the two (2) faces are identical in copy, size and dimension.
  - b. Sign height. Height shall be measured vertically between the highest point of the sign or sign structure and the average adjacent ground level for ten (10) feet in any direction of any sign support.
  - c. Sign calculation on a corner lot. Signs on corner lots may be displayed on both façades of the principal building fronting a public street. Such signs shall meet the size standards for the zoning district as provided in Schedule E of this Article for each front façade.
2. Notwithstanding §70-87.D.1.c above, only one freestanding sign shall be permitted on a corner lot.
3. Location of signs.
  - a. Signs shall not use utility poles or trees as a medium of communication or means of support.
  - b. Signs shall not be placed on/attached to fences.
  - c. No permanent or temporary sign shall be located in a public right-ofway.
  - d. Permanent or temporary signs erected or placed at or near the intersection of any street, alley, or driveway access shall not cause a traffic hazard by reason of the position, height, shape, color, or illumination of the sign that may interfere with line-of-sight visibility nor obstruct the view of, or be confused with, any authorized traffic sign, signal, or device.
4. Sign construction.

- a. All signs shall comply with applicable regulations of the current Uniform Code and the standards of the National Electric Code.
  - b. All free-standing signs shall be designed and constructed to withstand a wind pressure of not less than twenty (20) pounds per square foot of surface area.
  - c. All signs, sign finishes, supports, and electric work shall be kept clean, neatly painted, and free from all hazards such as, but not limited to, faulty wiring and loose supports, braces, guys, and anchors.
5. Illumination of signs.
- a. Illumination refers to any sign illuminated by artificial light, either from the interior or exterior of a sign, and includes reflective and phosphorescent light.
  - b. Internally illuminated signs are signs that derive illumination from an internal source and shall include all plastic signs lighted from behind and all awnings lighted to give the appearance of being lit from within the awning.
  - c. Internally illuminated signs shall only be permitted in the C zoning district.
  - d. Digital display (LED)/electronic message centers/displays shall meet the standards of §70-87.D.9 and shall only be permitted in the C zoning district.
  - e. Lighting directed toward a sign shall be shielded so it illuminates only the face of the sign and does not shine directly into the public right-of-way or onto a property other than the lot on which the illumination is situated.
  - f. Neon or LED-illuminated signs shall be permitted for use in window signs only and shall not exceed twenty percent (20%) of the size of the window. Such interior signs shall only be permitted on one face of the building.

6. Wall signs.

- a. Wall signs shall not project more than nine inches from the surface of the wall.
- b. Wall signs shall not extend more than eighty percent (80%) of the building frontage in length or over the top of the wall to which the sign is attached and shall not cover a window, obscure architectural detailing, or interrupt a roof line.
- c. No portion of a wall sign may extend above the roofline or parapet wall, or above the lower eave.



*Example of a wall sign.*

7. Projecting signs.

- a. One projecting sign shall be permitted per each distinct business or entity façade on a lot in lieu of a wall sign.



*Projecting sign.*

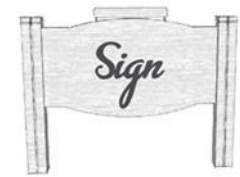
- b. Signs shall not project more than four (4) feet perpendicular from the side of the building and when suspended over a pedestrian walkway such as a sidewalk or entranceway, the bottom of such signs shall be no lower than eight (8) feet measured vertically.

8. Free-standing signs.

- a. All free-standing signs shall be set back at least three (3) feet from the interior edge of the sidewalk or ten (10) feet from the edge of pavement when no sidewalk exists, except on a corner lot where free-standing signs shall be set back twenty (20) feet from the intersection measured at the edge of pavement, and there shall be at least three (3) feet of clear space between the bottom of the sign board and the ground, provided that necessary supports may extend through such clear space.
- b. The maximum allowable height of a freestanding sign is provided in Schedule E.



*Monument sign or freestanding sign.*



*Freestanding sign.*

9. Digital Display (LED) Signs and Electronic Message Centers (EMCs).

- a. Digital signs/EMCs shall only be permitted in the C-Commercial zoning district.
- b. Only one digital sign is allowed per lot. For purposes of gas stations, digital price signs on all pumps combined shall constitute one sign.
- c. Digital signs/EMCs shall not exceed twenty (20) square feet in sign area.
- d. Message or copy of a digital sign/EMC shall be static for a minimum of eight (8) seconds and shall not contain any motion, flashing or scrolling within the message or copy.
- e. Sign display change must be instantaneous; fading or scrolling in and out of messages is prohibited.
- f. Digital signs/EMCs must include a photocell to control brightness and automatically dim based on ambient light.
- g. Digital signs shall not exceed 3,000 nits during daylight and 125 nits after dark. Nit certification must be provided with a sign application.
- h. Light trespass: At property lines, light trespass from the EMC shall be no more than 0.5 footcandles.
- i. Signs must go dark if there is a malfunction.
- j. Signs must be turned off from 9:00 p.m. until 6:00 a.m.

10. Feather flags.

- a. One feather flag per lot may be temporarily installed for up to sixty (60) days in a twelve (12)-month period.
- b. Feather flags shall be set back three (3) feet from the interior edge of the sidewalk or ten (10) feet from the edge of pavement where sidewalks do not exist and shall not be placed in locations that restrict vision or impair pedestrian or motor vehicle safety. An unobstructed pedestrian pathway of five (5) feet shall be maintained.



*Example of a feather flag.*

11. Window signs.

Window signs may cover no more than twenty-five percent (25%) of the window area. Open/closed signs and informational signs posting of days and hours of operation, building or tenant address, phone numbers, accepted credit cards; and “for rent” signs are exempt from the window coverage limit.

12. Awning and canopies signs.

- a. The valance portion of an awning or canopy meeting the following standards may be used as a sign and shall not count as a separate sign or count toward the total cumulative sign area.



*Awning (canopy) sign.*

- (1) Any sign (logo and/or lettering) on an awning shall not exceed sixty percent (60%) of the exterior surface of the awning.

- (2) The bottom of the awning or canopy shall be at least eight feet above the finished grade.

13. Off-premises directional signs.

- a. Only one (1) off-premises sign up to twelve (12) square feet may be located on a lot.
- b. An off-premises directional sign shall be situated at least ten (10) feet, but not more than fifteen (15) feet, from the public right-of-way leading to the building referenced by the sign and shall be situated at least ten (10) feet from any other public right-of-way or property line of the premises on which it is situated. The building where the business referred to by the sign is conducted must be at least 100 feet from any public right-of-way.
- c. Written permission of the landowner where the sign is to be placed is required to be filed with the Code Enforcement Officer.

E. Sign Allowances

- 1. All signage except that which is exempt per Subsection B, shall require approval by the Planning and a permit from the Code Enforcement Officer and shall meet the standards of this section and Schedule E.

2. The maximum cumulative sign area permitted for all signs on a lot, the maximum sign area for different types of signs and the height of signs are provided in Schedule E below.
3. Signage permitted in Schedule E shall meet the general requirements for sign types established in §70-87.D.
4. Number of signs.
  - a. In the R and RA zoning districts a total of one (1) sign is permitted per lot.
  - b. In the H, MU and C zoning districts, one freestanding sign and one wall or projecting sign per business is permitted but shall not exceed the permitted cumulative sign area permitted per lot as provided in Schedule E. The permitted amount of total signage and sign area differ to reflect the different character of each zoning district.



**Chapter 70 Schedule E: Sign Standards in Development Zones**

(See also §70-87.D for additional standards applying to each sign type.) SF = square feet

<b>Zoning District (refer to Zoning Map)</b>	<b>Maximum Cumulative Sign Area Per Lot</b>	<b>Wall Signs</b>	<b>Projecting Signs</b>	<b>Freestanding Signs</b>
<b>R-Rural and RA-Residential/ Agriculture</b>	12 SF	Maximum sign area: 12 SF  Number of wall signs permitted: 1 per lot	Maximum sign area: 6 SF	Maximum sign size: 12 SF  Maximum height: 8 feet measured from finished grade
<b>Mixed-Use (MU) District</b>	60 SF	Maximum sign area: 1.0 SF for each linear foot of building frontage up to 60 SF; no individual wall sign shall exceed 48 SF  Number of wall signs permitted: 1 per business	Maximum sign area: 12 SF	Maximum sign size: 36 SF, except that a multiple tenant sign may have an additional 12 SF sign per business up to an additional 24 SF of total sign area.  Maximum sign height: 10 feet measured from finished grade.
<b>H-Hamlet District</b>	60 SF	Maximum sign area: 1.0 SF for each linear foot of building frontage up to 60 SF; no individual wall sign shall exceed 48 SF  Number of wall signs permitted: 1 per business	Maximum sign area: 12 SF	Maximum sign size: 36 SF  Maximum height: 8 feet measured from finished grade
<b>C-Commercial District</b>	120 SF	Maximum sign area: 1.0 SF for each linear foot of building frontage up to 120 SF; no individual wall sign shall exceed 60 SF  Number of wall signs permitted: 1 per business	Maximum sign area: 12 SF	Maximum sign size: 36 SF, except that a multiple tenant sign may have an additional 12 SF sign per business up to an additional 36 SF of total sign area  Maximum height: 16 feet measured from finished grade

F. Common signage plans.

1. Common signage plans may be established by the following:
    - a. Owners of two (2) or more contiguous lots.
    - b. Owner of a single lot with more than one (1) principal building.
    - c. Owner of a single lot with one (1) building and multiple store fronts, including but not limited to shopping centers.
  2. Common signage plans must be approved by the Planning Board.
  3. A common signage plan conforming to the provisions of this Section, shall be allowed a twenty-five percent (25%) increase in the maximum total sign area for each included lot, based on the Planning Board's review of the following:
    - a. An accurate plot plan of the lot to scale.
    - b. Location of buildings, parking lots, and driveways.
    - c. Computation of the maximum total sign area for the individual signs, the height of signs, and the number of free-standing signs.
    - d. An accurate indication of each present and proposed sign.
    - e. Specifications for all signs on the lots regarding color scheme, lettering or graphic style, lighting, materials, and sign proportions.
- G. Nonconforming signs.
1. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign.
  2. If a nonconforming sign is taken down at any point other than for maintenance, it shall be replaced with a conforming sign.

H. Unsafe signs.

1. Any sign found to be unsafe or derelict upon inspection by the Code Enforcement Officer shall be repaired or made secure by the permit applicant of record. The Code Enforcement Officer shall give notice by certified mail, return receipt requested, to such person to repair or remove such unsafe or derelict sign within five days of receipt of said notice. If the sign is not repaired, made secure, or removed within said time period, or within such additional time as the Code Enforcement Officer may allow, the permit issued for said sign shall be revoked and the sign shall be ordered removed by the Code Enforcement Officer.
  2. If a sign is found to be a source of imminent peril to persons or property, the Code Enforcement Officer shall cause said sign to be immediately removed without notice to the permit applicant of record or property owner and all subsequent costs of removal by the Town will be assessed against the property owner's tax bill.
- I. Signs not in use/abandoned.

Any sign located on property that becomes vacant and unoccupied for a period of 180 days or more, or any sign that pertains to a time, event, or purpose that no longer applies, shall be deemed to have been abandoned. The sign shall be removed after written notice by the Code Enforcement Officer to the owner of the property on which the sign is affixed. In the event such sign is not voluntarily removed, subsequent costs of removal by the Town will be assessed against the property owner's tax bill.

**§ 70-88. Building design of new mixed-use, multi-family, and all nonresidential development in H, MU and C Zoning Districts.** A. Purpose.

The intent of the following guidelines and standards is to ensure that new building construction and building renovation preserve the architecture and scale of Canton's hamlets; establish a more cohesive character to the mixed-use corridors as gateways to the community; and complement the character of Canton's adjacent Villages.

B. Applicability.

1. The building design standards of this Section apply to all new construction and expansions requiring Site Plan Review located in the H, MU and C Zoning Districts.
2. Exemptions. Single-family dwellings, two-family dwellings, and agricultural uses shall be exempt from the standards of this Section although adherence is encouraged for all development.
3. Mini-self Storage units are exempt from this standard but shall meet the standards of Section §70-63.

C. Building orientation, entrances, and front yards.

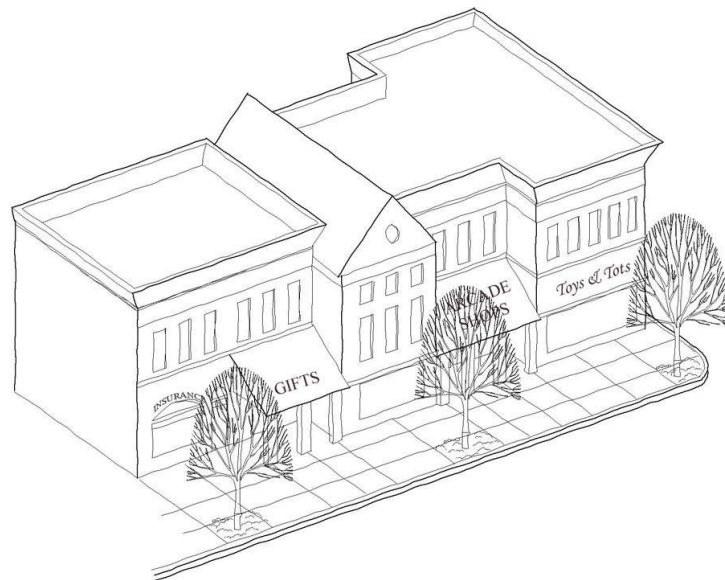
1. The front façade of buildings shall be oriented toward the public right-of-way with a public entrance in the front façade. For lots with more than one building, only building(s) fronting the public right of way shall be required to meet this standard.
2. The primary entrance on a site shall have clearly defined entrance featuring elements such as, but not limited to raised cornice parapets over the door; recesses/projections; peaked roof forms; arcades, canopies, or porticoes; arches, display windows; architectural details such as tile work and moldings that are integrated into the building structure and design.
3. The area between the street and the building should be dedicated to greenspace or pedestrian facilities, not vehicular areas. This may include, but not be limited to, lawn, landscape plantings, planters, pedestrian facilities, outdoor seating, or similar public space.

D. Building scale, massing and design.

1. Context.

- a. Building scale refers to the size of a building in relation to its immediate context in relation to surrounding buildings and is determined by the dimensions of its primary façades, including building height, building length, lot coverage, and disposition of the building on its site. Individual architectural features/elements including doors, windows, porches, and roof forms, all contribute to the perception of a building's scale. Scale is one of the most important features determining whether a building is compatible with its setting.
- b. Building massing refers to the dimensions and arrangement of a building's overall form, including the composition of the façade, the regularity or complexity of its overall shape, vertical and horizontal setbacks, the type and design of its various roof forms.

2. The scale of larger buildings should be reduced by breaking building massing into the appearance of several smaller, connected building forms with distinct roof lines, varying building heights, and variation in building materials.
3. Building design and features should be used to divide larger building masses with vertical or horizontal divisions, façade transitions, and changes in materials and textures to reinforce changes in the building form and to avoid monotony.
4. For larger structures, the length of any façade shall generally not exceed fifty (50) feet maximum (horizontal dimension). Shop fronts may be broken down even further; thirty (30) feet or less is preferred.
5. Roofs shall be proportional to the rest of the building and be in keeping with the character of adjacent buildings.



*Figure 3: Example of a façade break-up through architectural treatments.*

#### E. Façade composition.

1. Any façade that faces or is visible from a street, sidewalk or multi-use path or other public right of way or parking lot shall utilize the same materials, building design, and architectural character of the primary façade.
2. Buildings with expansive blank exterior walls not punctuated by window and door openings, or horizontal decorative elements, are prohibited on facades facing or visible from the street, sidewalk, multi-use path or other public right of way.
3. Facades shall be transparent and inviting on the street level, visible to public spaces such as sidewalks, plazas, parks, and parking lots. Transparency is most commonly created through the use of windows and transparent doors. Depending on the street level use of a building, the expected level of transparency may be different for practical reasons. Commercial uses, such as retail, should be more transparent than smaller office or residential uses. Ground

floor transparency is typically greater than upper stories. The following minimum transparency is preferred:

- a. Multi-family dwellings should have a minimum ground floor transparency of thirty percent (30%).
  - b. Other nonresidential uses should have a minimum ground floor transparency of fifty percent (50%).
4. Façades should feature simple architectural detailing that places a visual emphasis at entries, windows, eaves, cornice, and roofs.
  5. Architectural treatments should be integral to the building's construction and not consist of surface applied trim, graphics, or paint.
  6. Muted and traditional colors are generally preferred, with contrasting textures and tones used to add interest. Building colors should emphasize earth tones and colors common to traditional/natural building materials. Strong color may be used sparingly on trim, doors, shutters, and other architectural accents. F. Building materials.
    1. Building façade materials for new construction on new buildings should complement adjacent façades to reinforce the surrounding context rather than attempt to stand out from it.
    2. For any new building, addition, or alteration, the use of materials such as concrete clapboard siding, stone, brick, wood siding and trim, and slate are preferred.
    3. Plain (unfinished) concrete masonry units are prohibited on the ground floor.

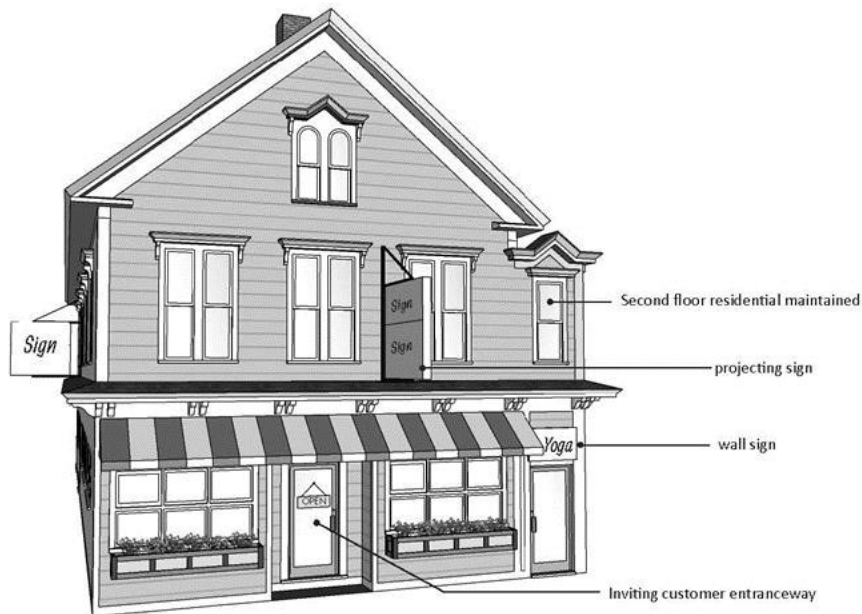


Figure 4: Example of preferred conversion of a residential-style structure to first floor commercial maintaining original architectural features.

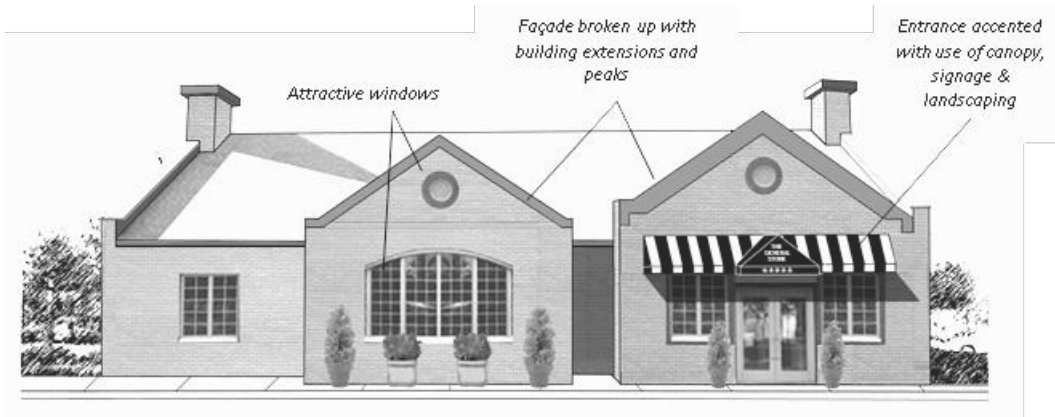


Figure 5: Example of a single-use retail or service establishment building design.

§ 70-89 through §70-90. Reserved.

## Article VIII: Establishment of Planned Development Districts (PDD)

### § 70-91. Purpose and Intent.

- A. Planned Development Districts shall have unique characteristics and circumstances of geography, topography, surrounding development, special goals and objectives of the community, and special factors pertaining to public health and safety, permanence of buildings, aesthetics, and intrinsic as well as extrinsic values of property.
- B. The Planned Development District regulations and procedures may apply to parcels of relatively small size as well as large scale development, depending upon the nature of the proposed uses and improvements and their relationship with other surrounding uses and the overall characteristics of the area's location.
- C. Planned Development Districts are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings, and by the conservation and more efficient use of open spaces and other amenities generally enhancing community life.
- D. Applications shall support sustainable land use and development practices and efficient use of land, public services, and utilities.
- E. Projects intending to meet an underserved need in the community or benefit the community at large are encouraged.

**§ 70-92. General requirements.**

A. Land ownership.

1. A Planned Development District may be proposed by a private person or entity, the Planning Board, Town Board, or by any other public body, public benefit corporation, development agency or government; whether or not actual development of the proposal is to be carried out by the proponent or under sponsorship of the proponent.
2. Any person, corporation, partnership, or association having an ownership interest in a proposed district, or any group of owners united in interest, acting jointly and pursuant to any agreement to carry out the proposal in separate ownership, may propose a Planned Development District in accordance with the procedures hereinafter established.
3. A parcel, parcels, district or site proposed for planned development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners indicate their express intentions to enter into such private agreements between or among themselves as  
will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Town.

B. Minimum land area.

1. Tracts of land under consideration shall contain a minimum of eight (8) contiguous acres. The applicant shall have the burden of establishing that the tract is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives established for a PDD and this Chapter.
2. The calculation of area for a planned development district shall not include existing streets or otherwise dedicated land, or land undesirable by reason of topography for that specific PDD, drainage or adverse subsoil conditions.

**§ 70-93. Types of PDDs**

A. Planned Residential Development (PRD) District.

1. Purpose. The purpose of the PRD District is to provide flexibility for residential development that creates housing diversity, enhances the efficient use of land, energy, community services and utilities, preserves open space and protects natural resources through increased density and housing options.
2. Permitted location. The PRD is permitted to be located on lands zoned R, RA, and MU.
3. Permitted Uses. The permitted principal and accessory uses in the PRD include all principal and accessory uses permitted in Schedule A for the existing zoning district in which the PRD is being considered, and may include multi-family dwellings,

townhouses, cottage communities and co-housing communities. Such residential uses may also include shared or common living and community spaces, amenities, open space, recreation, and alternative energy installations.

- B. Planned Residential Developments for Senior Community Development (PSCD) District.
1. Purpose. The purpose of the PSHD District is to incorporate a variety of housing types at a more flexible density with on-site accessory medical, retail and service uses for purposes of meeting the needs of the Town's aging population and others in need of living assistance.
  2. Permitted Location. A PSCD is permitted to be located on lands zoned R, RA, MU, H and C.
  3. Permitted Uses. The permitted principal and accessory uses in the PSHD include all principal uses permitted in Schedule A for the existing zoning district in which the PSHD is being considered and may include the following additional uses:
    - a. Townhouse development, multi-family dwellings, cottages;
    - b. Continuing care communities that include Townhouses, apartments, or assisted living care;
    - c. Activity and recreational services and facilities serving the residents of the PSHD;
    - d. Medical offices; and
    - e. Retail and personal service establishments under three 3,000 square feet of gross floor area that are intended to serve the residents of the PSHD.
  4. Restriction. Housing described in this section shall exist or be designed and constructed for the needs of seniors and is subject to the management or other legal restrictions that require all of the units to be occupied by persons fifty-five (55) years of age or older, or otherwise in need of assisted living services. Only under the following circumstances may adults under fifty-five (55) years of age and children reside in the units:
    - a. The adult is the spouse of a person fifty-five (55) years of age or older.
    - b. The adult's presence is essential for the physical care of a person fifty-five (55) years of age or older.
    - c. Persons in need of assisted living services who may be under the age of fiftyfive (55).
  5. Legal assurances for the provision of senior housing. Each application for proposed senior citizen housing development shall be accompanied by appropriate deed restrictions, easements and the like, in form and content satisfactory to the Town Attorney, as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities for all common areas, facilities and utilities with each stage of development or section thereof.
- C. Planned Mixed-Use Development (PMUD).



1. Purpose. The purpose of this district is to allow a mix of compatible uses and development arrangements that maximize land, infrastructure and energy efficiencies, and conserve natural resources.
2. Permitted Location. The PMD is permitted to be located in the R, RA, MU, H, or C Zone.
3. Permitted Uses. Land use activities shall include a minimum of two (2) uses, which may include any residential, community services or commercial use permitted in the R, RA, MU or C Zone as provided in Schedule A.

**§ 70-94. Planned Development District proposal process.**

- A. PDD adoption requires an amendment to this Zoning Law and Map; such amendments are discretionary acts of the Town Board.
- B. Before any Subdivision Approval, Site Plan Approval or Building Permit is issued by the Planning Board or Code Enforcement Officer, the developer or their authorized agent shall apply for and secure approval of such PDD in accordance with the procedures of this Section.
- C. Planned Development District proposals may be made at the earliest planning stage practical to allow time for a complete evaluation and to allow for the consideration of alternative plans or methods, to assess the full impact and consequences of the proposal, to formulate modifications or conditions as may be needed. The Planning Board or the Town Board may, from time to time, promulgate such guidelines, rules and regulations as may be deemed necessary for the orderly presentation and processing of such proposal in addition to those contained in this Article. Such guidelines may also establish permanent or temporary priorities on the type, location, or scale of development proposals.
- D. Sketch Plan Conference. Developers are strongly encouraged to have a Sketch Plan Conference with the Planning Board to discuss proposed development ideas prior to submitting an application to the Town Board.
- E. Application.
  1. Application for designation of a planned development district shall be made to the Town Board.
  2. Proposals shall include information regarding the proposed mix of uses, development density and scale, infrastructure improvements, community amenities, natural features, and retained natural areas. A sketch plan drawn to scale is recommended.

**§ 70-95. Review and Approval.**

- A. Upon receipt of an application, the Town Board shall refer the application to the Planning Board for preliminary review within ten (10) days after receipt of the application. The purpose will be to give both the municipality and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. This step is beneficial to both parties

because the community will gain knowledge of the developer's intent and the developer will learn their responsibilities before either is committed to significant outlays of time and money.

B. Planning Board Review of Planned Development District.

1. The Planning Board shall review any planned development district application and may require additional information including but not limited to:
  - a. Delineation of the various residential areas, indicating for each such area:
    - (1) General extent, size, and composition in terms of total number of dwelling units.
    - (2) Approximate percentage allocation by dwelling unit type (i.e., singlefamily, two-family, townhouse, multi-family).
    - (3) Description of the intended market structure including market rate and/or affordable housing units.
  - b. All development height and bulk standards; and calculation of percent of permeable area.
  - c. The location of any nonresidential uses and the approximate square footage of all non-residential uses.
  - d. The general outlines of the interior roadways and sidewalk systems, intended road ownership, and all existing rights-of-way and easements, whether public or private.
  - e. Delineation of open space, trails, or recreational areas.
  - f. The overall drainage system.
  - g. A topographic map.
  - h. A location map showing existing uses and names of owners of abutting lands.
  - i. Evidence of how the developer's proposed mix of land uses meets existing community demands.
  - j. A general statement as to how common open space is to be owned and maintained.
  - k. If the development is to be phased, a general indication of how the phasing is to proceed.
  - l. Evidence of the applicant's financial competence to carry out the plan.
  - m. A fair market rent analysis for the town of Canton and surrounding areas.
2. The Planning Board may recommend changes in the preliminary plans as are found to be necessary to meet the requirements of this Chapter, to protect the established or permitted uses in the vicinity, and to promote the orderly growth and sound development of the community.

C. Preliminary Plan Review. In reaching its decision on the proposed application and/or changes, if any, in the preliminary plans, the Planning Board shall consider, among other things the following:

1. That the proposal substantially conforms with the Town's Comprehensive Plan and other adopted plans, regional comprehensive plans, and with other manifest expressions of municipal development policy.
2. That there is a need for the proposed development in the proposed location and that there is a reasonable probability of economic success.
3. That the existing character of the neighborhood will not be adversely affected and that adequate safeguards are provided to limit possible detrimental effects of the proposed development on adjacent properties and on the neighborhood in general.
4. That there is ample provision for water, sewer, storm and surface water drainage and other utilities.
5. That there is adequate availability to schools, police and fire protection, parks and recreational facilities and other community facilities and public services.
6. Those natural areas are maintained and protected as part of the proposed development.
7. That the location, height and bulk of buildings and structures on the site are in proportion to each other and relate well to other structures and visual perspectives in the vicinity.
8. That careful attention has been given to the patterns of pedestrian and bicycle circulation and to the effective use and design of open spaces, landscaping, and amenities.
9. The traffic circulation and access management, including impact of the PDD on state and local roads as well as within the PDD, and the amount, location, and access to driveways, parking areas and loading areas.
10. That the proposed installation of lighting, signs, landscaping, fencing, screening, and other site details are generally in harmony with the proposed structures; with adjacent properties, with the rights and interests of the general public, and with the design qualities and objectives suggested by this Chapter and the Planning Board.
11. Also all information that is requested under Article IX, Site Plan Review.

D. Planning Board Recommendation. The Planning Board shall make a recommendation to approve, approve with modifications, or disapprove the application and shall report its findings to the Town Board within sixty-two (62) days following the date of referral to the Planning Board. Planning Board approval of the preliminary plans shall not constitute or imply a permit for or approval of construction plans.

E. Public hearing. In addition to the referral to the Town Planning Board, the Town Board shall conduct a public hearing on the proposed PDD prior to rendering its decision. Such public hearing may be conducted during the same time as the Town Planning Board review and prior to the Planning Board rendering a recommendation so as to allow such public input to be part of the Planning Board's review.

F. Final Approval. The Town Board shall approve, approve with modifications, or disapprove of the proposed Planned Development District. The Town Board shall render its decision within sixty (60) days of receipt of the Town Planning Board recommendation. In the event that the Planning Board recommends disapproval of the proposed planned development district, or approves it with modifications, which the developer is unwilling to comply with an affirmative vote of not less than three-fourths (3/4) of the members of the Town Board shall be required to approve the said project.

- G. Building permit. A building project within a planned development district shall conform substantially to the plans approved by the Planning Board and/or Town Board. A Building Permit may be issued by the Code Enforcement Officer only after construction plans and specifications have been filed and approved.
- H. Application for construction of a building project within an existing PDD.
  - 1. Site Plan Review shall be required for all development activities within the PDD not otherwise exempt from Site Plan Review pursuant to §70-101 shall be referred to the Planning Board by the Code Enforcement Officer.
  - 2. The Planning Board will approve, approve with modifications or disapprove the proposed building project. The Code Enforcement Officer may issue a Building Permit for the project upon written approval or approval with modifications from the Planning Board.
  - 3. If the developer is unwilling to agree to modifications or the project is disapproved, they may make appeal to the Zoning Board of Appeals.

**§ 70-96. Expiration or abandonment.**

- A. If development authorized by the Planning Board in a Planned Development District has not been commenced and diligently pursued within twenty-four (24) months from the date when the final plans and specifications were approved by the Town Board; or if approved plans for development on lands within a Planned Development District are abandoned, the Town Board may upon its own motion institute an amendment to rezone such Planned Development District back to the underlying Use District as provided on the Zoning Map pursuant to the Amendment provisions of this Chapter.
- B. The Town Board may upon its own motion institute an amendment to rezone such Planned Development District back to the underlying Zoning District as provided on the Zoning Map pursuant to the Amendment provisions of this Chapter.

**§ 70-97. Changes and amendments.**

- A. Any changes to an approved Planned Development District that are determined to be exempt from Site Plan Review pursuant to §70-101 may be approved by the Code Enforcement Officer and do not require further approval by the Town Board or Planning Board.
- B. Any changes or minor amendments to an approved Planned Development District may be reviewed and acted upon by the Planning Board through the Site Plan Review process.
- C. Changes or amendments to an approved Planned Development District that are determined by the Planning Board to be beyond the scope of the Planning Board's authority shall still be reviewed by the Planning Board, but such changes shall not become effective until approved by the Town Board in accordance with the Amendment provisions of this Chapter.

**§ 70-98. Reserved.**

## **ARTICLE IX: SITE PLAN REVIEW**

**§ 70-99. Purpose.**

The purpose of Site Plan Review is to provide an opportunity for a community to review a proposed site improvement and its physical and functional integration on and off-site to ensure that it will be compatible by presenting the site's existing characteristics and describing the intended design, arrangement, and uses of land to be improved and their potential impact with respect to:

- A. The health, safety, and general welfare of the Town and its citizens.
- B. Increased burden on the existing infrastructure or public facilities and services.
- C. Ensuring optimal conservation, protection, preservation, development, and use of the natural and built resources.
- D. Meeting the standards set forth in this Chapter.

**§ 70-100. Planning Board authorized to review Site Plans.**

- A. The Planning Board is authorized to review and approve, approve with conditions, or disapprove Site Plans in accordance with the standards and procedures set forth in this Article.
- B. The Planning Board is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed Site Plan. Such conditions must be met in connection with the issuance of permits by the Code Enforcement Officer.
- C. No Building Permit shall be issued for uses or structures requiring Site Plan Review unless said permit is conditioned upon conformity with the final Site Plan as approved by the Planning Board.

**§ 70-101. Applicability.**

A. Exemptions.

Site Plan approval by the Planning Board shall be required for all new permitted land use activities listed on Schedule A: Permitted Uses except for the following uses and activities, which shall be exempt from Site Plan Review:

1. Agricultural activities meeting the criteria of §70-7.

2. Construction of single-family and two-family dwellings. This exemption does not apply to any single- or two-family dwellings that comprise all or part of a residential condominium, townhouse, or apartment housing cooperative, or conversion of existing uses to use as a residential condominium, townhouse, or apartment housing cooperative, all of which shall be subject to Site Plan Review.
3. Customary accessory structures and land use activities.
4. Minor home occupations.
5. Small-scale solar energy systems.
5. Ordinary landscaping or grading that is not intended to be used in connection with a land use reviewable under the provisions of this Article.
6. Ordinary repair, maintenance, and interior alterations to existing structures or uses.
7. A surface parking increase of up to four additional spaces or the dimensional equivalent area of four additional spaces (stalls) as required in §70-84.

#### **§ 70-102. Coordination with other permits and approvals.**

A. Site Plan Review shall be included as an integral part of the Special Use Permit approval process and no separate Site Plan approval shall be required for uses requiring a Special Use Permit. B. Variances.

1. Where a Site Plan application contains one or more features that do not comply with the dimensional regulations of this Chapter, Site Plan Review shall begin with the Planning Board prior to seeking the identified Area Variance(s).
2. Prior to the Planning Board completing its review, the applicant shall seek all Area Variances necessary for Site Plan approval. The Planning Board shall provide a written opinion regarding the Variance(s). The applicant will then return to the Planning Board for final approval after the Zoning Board of Appeals renders a decision on related Area Variances.
3. Such Area Variance applications may be made to the Zoning Board of Appeals pursuant to Article XIII, Variances and Appeals, without a decision or determination by the Code Enforcement Officer.
4. Use Variances require approval by the Zoning Board of Appeals, prior to any consideration by the Planning Board for Site Plan approval.

#### **§ 70-103. Pre-application conference.**

A pre-application conference may be held between the Planning Board, Code Enforcement Officer and applicant to review the basic site design concept and generally determining what additional information (if any) to be required on the site plan including landscaping materials, if any.

## **§ 70-104. Application requirements.**

- A. The Site Plan Review application submission shall include paper copies in an amount identified by the Planning Board and Code Enforcement Office and one electronic copy of a site plan map drawn to scale showing the information provided in §70-104.D below unless otherwise waived pursuant to §70-104.C, and the required fee as established by the Town Board.
- B. The Planning Board may require that any plans required as part of a Site Plan application be stamped by a licensed professional land surveyor, engineer, architect, landscape architect or other appropriate licensed professional as applicable.
- C. Waiver of requirements. The Planning Board shall have the authority to waive any or all of the above informational requirements. Said waiver may be granted upon a finding by the Planning Board that the Site Plan Review requirement is not requisite to the interest of the public health, safety, and general welfare or is otherwise unnecessary to a particular Site Plan. The Planning Board shall state the basis for said waiver as part of the public record.
- D. Site Plan elements.
  - 1. Title of drawing, including the name and address of the owner, the applicant and the person responsible for preparation of such drawing; it shall also include the Tax Map Number.
  - 2. North arrow, scale and date.
  - 3. Boundaries of property plotted to scale.
  - 4. Existing water course and bodies of water and designated wetlands.
  - 5. Location, dimension, and purpose of any existing or proposed easement.
  - 6. A United States Geographic Survey (USGS) map or equivalent of the area shall be provided.
  - 7. Proposed grading and drainage and storm water management system.
  - 8. Location, purposed use and height of all buildings and site improvements, including culverts, drains, retaining walls and fences.
  - 9. Setback distances from property lines of all structures requiring a Building Permit.
  - 10. Location, design and construction materials of all streets, driveways, parking and truck loading areas, showing points of entry and exit from the site.
  - 11. Location of proposed sidewalks and multi-use paths.
  - 12. Calculation of the percent of proposed imperviousness on the lot.
  - 13. Location of outdoor storage, if any.
  - 14. Description of the method of sewage disposal and location of the facilities.
  - 15. Identification of water source; if a well, locate it.
  - 16. Location, design, and construction materials of all utilities, energy and communications distribution facilities, including electrical, gas and solar energy or other alternative energy, telecommunications.
  - 17. Location and size of all proposed signs.
  - 18. Location and proposed development of all landscaping and buffer areas including a general Landscaping plan as required in §7083.

19. Location and design of outdoor lighting facilities.
20. Location of garbage and recycling receptables and storage areas; plans for screening.
21. Location for snow storage.

E. Additional information.

In some cases, the Planning Board may require the following:

1. Provision for pedestrian access.
2. Location of fire lanes and hydrants.
3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
4. Other elements integral to the proposed development as considered necessary by the Planning Board.

**§ 70-105. Review by Planning Board.**

The Planning Board's review of the site plan may include, as appropriate, the following:

B. General Considerations.

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
4. Location, arrangement, appearance and sufficiency of off-street parking and loading.
5. Adequacy of storm water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping, constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. Protection of adjacent or neighboring properties against noise, glare, unsightliness or noxious condition.
9. In cases of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
10. Adequacy of fire lanes and other emergency zones and the provision for fire hydrants, where feasible.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.



C. Coordinated-review.

1. Superintendent of Highways. The Planning Board shall consult with the Superintendent of Highways regarding any proposed development requiring any changes to a Town-owned streetscape, stormwater drainage system or public right-of-way. The Superintendent shall have thirty (30) calendar days from receipt of the application to provide a recommendation to the Planning Board.
2. Fire Chief. The Planning Board shall consult with the Fire Chief regarding onsite emergency vehicle access for any new development or change of access to a site.
3. Complete Streets Task Force. The Planning Board may consult the Complete Streets Task Force for input regarding any proposed development. The Taskforce shall have thirty (30) calendar days from any such request to provide a recommendation to the Planning Board.
4. Whenever the circumstances of the proposed development require referral to the County Planning Board under §239-m of the General Municipal Law, the Planning Board shall coordinate the review procedures to provide timely and efficient processing of the application.
5. The Planning Board may consult with other local county officials, in addition to representatives of federal and state agencies, including but not limited to, the Soil Conservation Service, the State Department of Transportation and the Department of Environmental Conservation.

D. Agricultural Data Statement.

The applicant is required to notify any agricultural operator within an Agricultural District and within 500 feet of a proposed project as described in §70-19. The applicant must supply the Planning Board with notification letters postpaid at least ten (10) calendar days before the public hearing.

- E. Site Plan applications shall be referred to the appropriate St. Lawrence County Planning agency if applicable and in accordance with the criteria and procedures of §70-18 and NYS General Municipal Law.

F. Public hearing.

The Planning Board may conduct a public hearing on the Site Plan application if it considers it desirable. Such hearing may be held within sixty-two (62) calendar days of the receipt of the complete application for Site Plan Review. The Planning Board shall follow the public hearing process provided in §70-16 of this Chapter.

**§ 70-106. Findings; written decision.**

- A. Within sixty-two (62) calendar days of the date of the Planning Board determination of a complete application, the Planning Board shall approve, approve with conditions, or

disapprove the application. An extension of the sixty-two (62)-day period may be granted upon mutual consent of both the Planning Board and the applicant. If the Planning Board fails to act within said sixty-two (62)-day period or a granted extension, the Site Plan shall be considered approved.

- B. All approvals or approvals with conditions shall include payment by the applicant of all fees and reimbursable costs due to the Town.
  
- C. The Planning Board's final action, rendered in writing, shall consist of one of the following:
  - 1. Approval of the Site Plan shall be based upon a determination that the proposed plan is compatible with the considerations set forth in §70-105.A;
  - 2. Approval of the Site Plan subject to any conditions, modifications, and restrictions as required by the Planning Board resulting from findings made as per §70-106; or
  - 3. Disapproval of the Site Plan based upon a determination that no conditions, modifications or restrictions are available and mutually agreeable that would mitigate adverse findings made pursuant to.

**§ 70-107. Reserved.**

## **ARTICLE X: Special Use Permits**

### **§ 70-108. Purpose.**

Special Use Permits are for uses that have characteristics that may pose land use or nuisance concerns or other issues. Accordingly, such uses require special consideration and may include additional regulations for each such use to mitigate impacts. Each use warrants consideration as an individual case in the district and on the specific lot on which it is proposed to be located. Granting of a Special Use Permit for a use in a zoning district shall be based on its own unique facts and circumstances and shall not establish any precedent for granting of a Special Use Permit for the use or any other Special Use Permit use on any other lot in the district or in other districts.

### **§ 70-109. Administration.**

Pursuant to Town Law, § 274b, the Town Planning Board will administer the review and granting of Special Use Permits.

### **§ 70-110. Applicability.**

- A. All uses of land listed in Schedule A as uses permitted with a Special Use Permit shall be allowed upon issuance of a Special Use Permit by the Planning Board.
- B. Additional regulations related to certain uses are provided in Article VI, Additional Regulations of Specific Use and shall be met.

### **§ 70-111. Coordination with other approvals.**

- A. Site Plan Approval is required as part of Special Use Permit uses involving new construction, or any land development activities not specifically exempted by §70-101, Site Plan Review. Such Site Plan Review shall be carried out in conjunction with these Special Use Permit procedures.
- B. Area Variances.
  - 1. Where a Special Use Permit application contains one or more features that do not comply with the dimensional regulations of this Chapter, Special Use Permit review shall begin with the Planning Board prior to seeking the identified Area Variance(s).
  - 2. Prior to completing its review, the Planning Board shall refer the Area Variance application(s) to the Zoning Board of Appeals along with its written opinion regarding the Variance(s).
  - 3. Such Area Variance applications may be made to the Zoning Board of Appeals for such Area Variance pursuant to Article XIII, Variances and Appeals, without a decision or determination by the Code Enforcement Officer.

### **§ 70-112. Special Use Permit review criteria.**

A. The Planning Board shall consider the following general criteria when making a decision on a Special Use Permit:

1. The proposed building or use complies with all zoning district, overlay district, and other specific requirements of this Chapter, and will be consistent with the purposes of this Chapter and of the zoning district in which it is located.
2. The use will not conflict in any way with the Canton Comprehensive Plan and other adopted Town plans.
3. The proposed building or use shall not have an adverse impact on adjacent historic resources as formally recognized by the Town and the State and Federal Registers of Historic Places.
4. If the property is in a residential district, it will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.
5. The proposed building or use shall not substantially impact the nature and character of the surrounding neighborhood, historic district, or corridor in which it is located. In determining substantial impact, the Planning Board shall consider the location and size of the proposed use, the nature and intensity of the operations involved in or conducted in connection with the proposed use, the size of the site in relation to the proposed use, and the location of the site with respect to streets giving access to the proposed use.
6. The proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood regarding traffic conditions, parking, noise, utility facilities, and other matters affecting the public health, safety, and general welfare.
7. Operations in connection with the proposed use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would be the operation of any permitted use not requiring a Special Use Permit.
8. The proposed building or use shall be served adequately by essential public facilities and services, such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools.
9. The proposed building or use shall not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.

**§ 70-113. Procedure.**

- A. Each application for a Special Use Permit shall be submitted on an application form available from the Code Enforcement Officer and accompanied by a proposed plan showing the information required for Site Plan approval as applicable.
- B. Each application shall be accompanied by a fee as established in the Fee Schedule by the Town Board.
- C. The Code Enforcement Officer shall refer the submitted Special Use Permit application to the Planning Board within ten (10) calendar days after receiving

the complete application.

- D. The applicant or agent for applicant shall attend the Planning Board meeting to answer questions concerning the application.
- E. The Planning Board shall review the application and upon determining the application complete, designate a public hearing date, within sixty (62) calendar days of such determination.
- F. The Planning Board shall follow the public hearing process provided in §70-16.
- G. The applicant is required to notify any agricultural operator within an Agricultural District and within 500 feet of a proposed project as described in §70-19. The applicant must supply the Planning Board with notification letters postpaid at least ten (10) calendar days before the public hearing.
- H. Special use permits shall be referred to the appropriate St. Lawrence County Planning agency in accordance with the criteria and procedures of §70-18 and NYS General Municipal Law.
- I. The Planning Board shall make a factual record of all its proceedings involving the granting of a Special Use Permit. The decision of the Planning Board shall contain the reasons for its decision.
- J. The Planning Board shall render its decision, either approving, approving with conditions or denying within sixty-two (62) calendar days after the hearing, unless an extension is mutually agreed upon. All Special Use Permit decisions shall be filed with the Town Clerk no later than five (5) business days from the date of decision and a copy of the decision shall be mailed to the applicant.

**§ 70-114. Special Use Permit restrictions, expiration, revocation, and enforcement.**

- A. A Special Use Permit shall be limited to the specific property for which the application was made.
- B. A Special Use Permit shall be deemed to authorize only the particular special use or uses specified therein.
- C. A conditional Special Use Permit approval shall expire at the end of six (6) months if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of timeframe of their discretion.
- D. A Special Use Permit may be issued as:
  - 1. Permanent.
  - 2. Temporary, to cease on a specified date and not to be renewable.

3. Renewable within a specified period of time set by the Planning Board.
- E. Any violation of the conditions of a Special Use Permit or a violation of any applicable performance criteria of this Chapter shall be deemed a violation of this Chapter and shall be subject to enforcement action as provided herein.
  - F. All Special Use Permits shall run with the land and will be transferred to successive property owners provided the permit has not expired or been revoked.

## **ARTICLE XI: Nonconforming Lots, Structures and Uses**

It is the intent of this chapter to permit legal nonconforming uses to continue as required by law until they are removed, but not to encourage their survival or expansion.

### **§ 70-115. Nonconforming lots of record.**

- A. Lots of record at the time of adoption of this Chapter that are less than the minimum lot size and lot frontage required shall be deemed to meet the minimum size regulations of this Chapter. Nothing contained herein shall prohibit the use of an undersized lot of record, provided all other area and bulk regulations for the zoning district in which the lot is located shall be met, and that there is no further subdivision of the lot.
- B. In any zone where residences are permitted, such undersized nonconforming lots may be used for not more than one (1) single-family dwelling.
- C. Lawfully existing structures located on nonconforming lots may be moved, expanded, enlarged or replaced without a Variance, as long as such change complies with all of the regulations of the zoning district in which it is located.

### **§ 70-116. Nonconforming structures.**

- A. Structures existing at the time of the enactment of this Chapter may continue to be utilized.
- B. Any nonconforming structure or portion thereof declared unsafe, shall be restored to safe condition or removed.
- C. Any building or structure for which a valid Building Permit was lawfully issued prior to the adoption of this Chapter, may be completed, and used in accordance with the plans and specifications for such building or structure.
- D. Alterations. A nonconforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty percent (50%) of the replacement costs of said structure unless the structure shall be changed to a conforming structure.
- E. Restoration. Nonconforming structure damaged by fire, or other causes, to the extent of more than seventy-five percent (75%) of its replacement cost shall not be repaired or rebuilt except in conformity with the requirements of this chapter. If such plans for rebuilding require Site Plan approval pursuant to Article IX, such approval shall be granted prior to issuance of a Building Permit. The restoration or rebuilding shall be commenced with a Building Permit within twelve (12) calendar months of such damage or destruction and be completed within twenty-four (24) calendar months.

**§ 70-117. Nonconforming uses.**

- A. The lawful use of any land or building existing at the time of the adoption of this Chapter may be continued, although such use does not conform with the provisions of this Chapter. Any such building may be reconstructed or structurally altered, and the nonconforming use therein changed, subject to the following regulations.
- B. Expansion. A nonconforming use shall not be expanded unless granted a Use Variance from the Zoning Board of Appeals.
- C. Change of use. A nonconforming use shall not be changed to any other nonconforming use.
- D. Replacement. If a nonconforming use is replaced by another use, such use shall conform to the regulations of the zoning district in which it is located.
- E. Destruction and restoration. If any structure in which a nonconforming use is conducted is hereafter damaged, removed, or destroyed by fire, wind, explosion, or other natural cause, to the extent of 75% or less of its fair market value at the time of such damage, application for any reconstruction or restoration of such structure for a Building Permit to resume the nonconforming use shall be made within one year and the structure for the nonconforming use shall be constructed within one additional year unless the permit is renewed.
- F. Improvements. A building within which there is a nonconforming use may be improved if the proposed improvements or remodeling of the building, including the improvement of its exterior appearance and of its grounds, would result in enhancing the compatibility of such building with its surroundings. All exterior appearance and grounds improvements shall require Site Plan Review as may be applicable under Article IX.
- G. Any pre-existing legal use that is allowable by Special Use Permit under this Chapter, but that has not been issued a Special Use Permit, shall be considered a permitted use. The expansion of such a use, other than a single-family or twofamily residence, shall require Site Plan approval, unless such expansion has been permitted by a prior Site Plan approval.
- H. Discontinuance of nonconforming uses.
  - 1. Whenever a structure or land used for or occupied by a non-conforming use has been discontinued for a period of twelve (12) months, such use shall not thereafter be continued. Such use shall not be considered in operation unless there is proof of operation for at least sixty (60) days within a twelve (12) month period.
  - 2. A nonconforming use shall be deemed to have been discontinued if it is changed to a conforming use



## **Article XII: Administration and Enforcement**

### **§ 70-118. Powers and duties of Code Enforcement Officer.**

- A. This Chapter shall be enforced by a person hereinafter called the "Code Enforcement Officer," who shall be designated by the Town Board, and who shall in no case grant any permit for any building or use on premises where the proposed erection, alteration, relocation, or use thereof would be in violation of any provision of this Chapter. The Code Enforcement Officer shall make such inspections of buildings or premises as are necessary to carry out their duties. No permit nor Certificate of Occupancy or Compliance required hereunder shall be issued by the Code Enforcement Officer except in compliance with the provisions of this Chapter or as directed by the Zoning Board of Appeals under the provisions of Article XIII.
- B. It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Law and other applicable local, state, and federal laws.
- C. Should the Code Enforcement Officer be in doubt as to the meaning or intent of any provisions of this Law, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a Building Permit, Zoning Permit or Certificate of Compliance or Occupancy in a particular case related to the provisions of this Law, the Code Enforcement Officer shall appeal the matter to the Zoning Board of Appeals for interpretation or decision.
- D. Report to Town Board. A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.
- E. Public record. The Code Enforcement Officer shall file all permit actions with the Town Clerk.
- F. Environmental review. The Code Enforcement Officer shall conduct an initial screening of all applications for environmental impact and shall, where indicated, refer applications to the appropriate board.

### **§ 70-119. Zoning Permit required; application and review.**

- A. Application must be made with the Code Enforcement Officer on forms approved by the Town. All information on the application form must be completed. In addition, the following information is also required to constitute a complete application:
  - 1. Map required. A property map shall be submitted with all applications. The map shall be either:
    - a. Sketch map. A sketch map is required with all applications for one or twofamily dwellings, their customary accessory uses or farm uses. The sketch map shall be drawn to approximate scale and show to the satisfaction of The Code Enforcement Officer the dimensions and

location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway locations, natural watercourses, ponds, surface drainage patterns and location of existing or proposed easements.

- b. Site plan. A site plan is required with applications for all other uses. Requirements and procedures for Site Plan approval are in Article IX of this Chapter.
2. Evidence of property ownership or intent to purchase.
3. Water and Sewage Disposal Systems. The Code Enforcement Officer must approve the water supply and the sewage disposal system and plans for both must be submitted at the time of application. Applications lacking such information shall not be accepted.
4. Licenses. Any use currently licensed by federal, state, county or town agencies and already operating within the Town shall present evidence or currently valid licenses before any expansion permits are considered.
5. Fee. The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application.

B. Zoning Permit; issuance; termination.

1. Under the terms of this Chapter, a Zoning Permit shall be issued by the Code Enforcement Officer upon approval of an application to the Planning Board or Zoning Board of Appeals or determination of compliance with this Chapter.
2. When all requirements of this Chapter have been met, the Code Enforcement Officer may issue a Building Permit that complies with Chapter 23 and shall provide a copy to the applicant and file one (1) copy of the approved permit in the Town Clerk's Office.
3. Any Building Permit for which construction does not have a certificate of occupancy one (1) year after issuance shall expire. The Code Enforcement Officer may extend the duration of an expired Building Permit for up to six (6) months for good reason when requested by the applicant.

**§ 70-120. Certificate of compliance.**

- A. No land shall be occupied and no building hereafter erected, altered or extended or shall be used or changed in use until a Certificate of Compliance and/or occupancy shall have been issued by the Code Enforcement Officer. For previously existing construction, the Code Enforcement Officer may, upon request, issue such a certificate if he determines that the use of the building in question meets the requirements of this Chapter.
- B. A Certificate of Compliance shall be issued only if the proposed use of the building or land conforms to the provisions of this Chapter and/or to the plot or site plan, and/or the purpose and description of which the permit was issued. The Code Enforcement Officer shall make, or cause to make, an inspection of each building or lot for which a Certificate of Compliance has been applied before

issuing such certificate. Such inspection shall be made within ten (10) working days, upon notification from the applicant that the project for which a permit was granted is completed.

### **§ 70-121. Violations.**

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy and land, building or structure or part thereof in a manner not permitted by an approved Zoning Permit or Certificate of Compliance.
- B. It shall be unlawful for any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or for any person taking part or assisting in the construction, repair or use of any land, building or structure to violate any of the applicable provisions of this Local Law, or any lawful order, notice, directive, permit or certificates of the Code Enforcement Officer made hereunder.
- C. Compliance Orders and Notification.
  - 1. The Code Enforcement Officer is authorized to issue compliance orders in writing regarding any condition or activity found to exist in or about any building, structure or premises in violation of this Local Law, state and local building codes whether by observation or written notice, or any other notice received by the enforcement officer. Upon finding that such condition or activity exists, the Code Enforcement Officer shall issue a compliance order, the compliance order shall:
    - a. Be in writing,
    - b. Be dated and signed by the Code Enforcement Officer,
    - c. Specify the condition or activity that violates the local law/ordinance/state or local building codes, and
    - d. Specify the provision or sections which are violated by the specified condition or activity.
    - e. Specify that the violator shall remedy the violation within thirty (30) days or time stated in the period of time otherwise stated in which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance,
    - f. Direct that compliance be achieved within the specified period of time, and
    - g. State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
  - 2. The Code Enforcement Officer shall cause the Compliance Order or copy thereof to be served on the owner of the affected property personally or by certified mail. It shall be unlawful for any person to fail to comply with a written Notice of Compliance from the Code Enforcement Officer within the time fixed for compliance therewith.
  - 3. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance 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 being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in the sentence shall not affect the efficacy of the Compliance Order.

**§ 70-122. Penalties for offenses; injunctions.**

- A. Excepting penalties prescribed in other sections of this local law, any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Chapter shall be guilty of an offense and, upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a period of not more than fifteen (15) days, or both. Each week a violation is continued shall be deemed a separate offense.
- B. The Town may obtain an action to restrain by injunction any violation of this Chapter or any failure to comply with any of the provisions of this Chapter.
- C. All violations of the Code of the Town of Canton are to be denominated as offenses and not misdemeanors for sentencing purposes. If the Town intends to make a violation of its Town statute a misdemeanor, said statute will specifically state that it is a misdemeanor.
- D. Hazardous situation. Upon determination by the Code Enforcement Officer that a hazardous situation exists, the Code Enforcement Officer has the authority to declare that such exists and that it is illegal and shall be abated by securing, repairing or rehabilitating or by demolishing in accordance with the following:
  - 1. Notice shall be served on the owner or their agent, as determined by the tax records to correct the hazard immediately; or
  - 2. If the Code Enforcement Officer finds that there is actual and immediate danger of failure or collapse so as to endanger life or health, such notice shall also require the building, structure, condition or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and a Certificate of Compliance is issued; or
  - 3. In cases of emergency which, in the opinion of the Building Inspector or Town Board involve imminent danger to human life or health, they shall promptly cause such building, structure, condition or portion thereof to be made safe or removed. For this purpose, they may at once enter such structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary. They may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private right-of-way.
  - 4. In case the owner, agent or person in control cannot be found within the stated time limit or such owner, agent or person in control shall fail, neglect

or refuse to comply with notice, the Town Attorney shall be advised of all the facts in the case and shall institute the appropriate action in the courts to compel compliance.

5. Costs incurred under §70-122.D.3 and D.4 shall be paid by Town of Canton. Such costs shall be charged to the owner of the premises involved and shall be added to said owner's tax bill.

## **ARTICLE XIII: Zoning Board of Appeals; Variances**

### **§ 70-123. Appointment of members.**

- A. The Town Board authorizes the appointment of a five (5) member Zoning Board of Appeals as more fully described in Town Law § 267. Terms of the Zoning Board of Appeals shall be staggered five (5) year terms appointed by the Town Board.
- B. The Town Board of the Town of Canton hereby establishes two (2) alternate positions to the Zoning Board of Appeals pursuant to the authority granted under § 267 of the Town Law.
- C. The Town Board, at its organizational meeting, shall appoint said alternate members for an annual term. The Town has the authority to make these appointments by Resolution. The Town also has the authority to fill any vacancy created in the alternate member positions by Resolution.
- D. Should the Town board fail to make annual appointments at its organizational meeting, said previously appointed alternate members shall serve until said position is filled or until a vacancy occurs.

### **§ 70-124. Training.**

- A. Each member of the Zoning Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one year may be carried over by the member into succeeding years to meet this requirement. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, State agency, statewide municipal association, college, or other similar entity.
- B. To be eligible for reappointment to such board, such member shall have completed the training promoted by the Town Board described in §70-124.A above.
- C. No decision of a Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this §70-124.

### **§ 70-125. Chairperson; rules; expenses.**

- A. The Town Board may select a chairperson of the Zoning Board of Appeals or, on failure to do so, the Zoning Board of Appeals shall elect a Chairperson from its own members.

- B. The Zoning Board of Appeals may adopt rules and bylaws for its operation pertaining to: meeting date, frequency of meetings, time of meeting, etc.
- C. The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the Zoning Board of Appeals to maintain a written record of its meetings.
- D. All decisions shall be by at least a majority of the full membership [three (3)]. In those cases of a referral recommendation by the County Planning Board, a majority plus one vote of the full membership [four (4)] shall be required to override the County Planning Board decision. In all cases, disapproval can be rendered with a simple vote of the full membership.
- E. The Zoning Board of Appeals may petition the Town Board to replace a member due to excessive absence or inactivity.
- F. Alternate members may serve when there is a conflict of interest with regard to a member of the Zoning Board of Appeals, and also when a member of the Zoning Board of Appeals is unavailable to fulfill his or her duties.

**§ 70-126. Functions.**

Functions of the Zoning Board of Appeals shall be:

- A. Interpretation. Upon appeal from a decision by the Code Enforcement Officer, the Zoning Board of Appeals shall decide any question involving interpretation of any provision of this Chapter.
- B. Variances. The Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer as provided for in §274-a and §277 of New York State Town Law, shall have the power to grant either use or area variances, as defined herein.

**§ 70-127. Requests for variances.**

All requests for variances shall be made to the Zoning Board of Appeals after denial of a Building Permit by Code Enforcement Officer.

**§ 70-128. Area Variance Policy.**

- A. "Area Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning of regulations.
- B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed

against the detriment of the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall consider:

1. whether an undesirable change will be produced in the character of the neighborhood or a determinant to nearby properties will be created by the granting of the Area Variance;
  2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance;
  3. whether the requested Area Variance is substantial;
  4. whether the proposed variance will have an adverse effect on impact on the physical or environmental conditions in the neighborhood or district; and
  5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but not necessarily preclude the granting of the Area Variance.
- C. The Zoning Board of Appeals, in the granting of Area Variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### **§ 70-129. Use Variance Policy.**

- A. "Use Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.
- B. No such Use Variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located.
1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  3. That the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and
  4. That the alleged hardship has not been self-created.
- C. The Zoning Board of Appeals, in the granting of Use Variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.



**§ 70-130. Imposition of Conditions.**

The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**§ 70-131. Appeals.**

- A. Applicants, or any officer, department, board, or department of the Town, have the right to appeal to the Zoning Board of Appeals any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this Chapter. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the official charged with enforcement, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.
- B. Time of Appeal. Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation, or determination of the official charged with the enforcement of this Chapter by filing with an administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. Stay upon Appeal. An appeal to the Zoning Board of Appeals shall stay the enforcement of this Chapter from which the appeal has been taken, unless the Code Enforcement Officer determines that the stay of enforcement would pose imminent peril to life or property.

**§ 70-132. Variance and Appeal Procedure.**

- A. Applications for Variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer.
- B. Every application for a Variance shall refer to the specific provision of the law involved and establish the details of why the Variance should be granted.
- C. Upon receipt of the completed application, the Zoning Board of Appeals shall:
  - 1. Schedule a public hearing within such reasonable time.

2. Arrange publication of notice of the public hearing as described in §70-16 of this Chapter.
  3. Refer the application the County Planning Board as may be required by General Municipal Law §239-m.
- D. Within sixty-two (62) days of the public hearing, the Zoning Board of Appeals shall render a decision unless an extension of time is mutually agreed to by the Board and the applicant.
- E. Filing of decision and notice. The decision of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered. If the application was referred to the County Planning Board, a copy of the Zoning Board of Appeal's findings and decision must be sent to the County Planning Board.

**§ 70-133. Meetings of Board.**

- A. The Zoning Board of Appeals shall hold meetings at the call of the Chairperson or at the request of three (3) or more members.
- B. All votes of the Zoning Board of Appeals shall be taken by roll call.
- C. In accordance with General Municipal Law, §809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- D. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- E. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney and request the Town Attorney to attend its meetings.
- F. All meetings of the Zoning Board of Appeals shall be open to the public.
- G. The Zoning Board of Appeals shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Zoning Board of Appeals.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings, including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be accurate but not necessarily a verbatim transcript but may be in narrative form. The factual record shall be taken by the Secretary to the Board.

## **ARTICLE XIV: Amendments**

### **§ 70-134. Authority of Town Board.**

The Town Board may on its own motion, and after public hearing, amend, supplement, repeal or change the regulations and applicable standards of this Local Law.

### **§ 70-135. Planning Board Role.**

The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions or applicable standards of this Local Law.

### **§ 70-136. Process.**

#### **A. Petitions.**

1. Any petition for amendments shall be submitted to the Town Clerk with an application and fee as established by the Town Board in the Fee Schedule. Any petition for a change in the Zoning Map shall include the following:

(a) The name of the property owner.

(b) A map accurately drawn to an appropriate scale showing the proposed zone district boundary changes, property lines, the calculated areas affected in acres or square feet, the street rights-of-way in the immediate vicinity, and the lands and names of owners immediately adjacent to the property to be rezoned.

(c) A metes and bounds description of the proposed amendment. B. Referrals.

1. Any such proposed change in the text or Zoning Map of this Law, except a proposal from the Planning Board, shall first be referred to the Planning Board, which shall submit a written report to the Town Board prior to a public hearing on the proposed amendment by the Town Board.
2. The Planning Board shall submit to the Town Board its advisory report within thirty (30) days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within forty-five (45) days shall be deemed to be a favorable recommendation.
3. The proposed amendment shall be referred to the St. Lawrence County Planning Board under the provisions of §239-m of the NYS General Municipal Law as described in §70-18.

C. SEQR. The Town Board shall comply with the provisions of the NYS Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the NYS Codes, Rules and Regulations.

- D. Public Hearing. Before any amendment, supplement or change is made to this Local Law, there shall be a public notice and hearing as required by law. Notice of the hearing shall be provided via the official Town newspaper and the Town website. Such hearing may be held by the Town Board, or jointly with the Town Planning Board on request of the Town Board. A majority vote of the members of the Town Board shall be required to amend this Local Law, except in the instance of a protest petition as described in §70-137.

**§ 70-137. Protest.**

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least a majority plus one of the members of the Town Board.

**ARTICLE XV - Definitions**

**§ 70-138. Use of words and terms.**

- A. Except where specifically defined herein, all words used in this Chapter shall carry their customary meanings.
- B. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural the singular.
- C. The word "person" includes a profit or non-profit corporation, company, partnership, or individual.
- D. Where the words "lot," "plot," "parcel," "tract of land," and "premises" are used, the use of one shall include the others.
- E. The word "structure" includes the word "building."
- F. The word "used" refers to the actual fact that a lot or land, building or structure is being occupied or maintained for a particular use. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for." G.

The word "shall" is mandatory and not directory.

**§ 70-139. Definition of words and terms.**

- A. For the purposes of this Chapter certain words and terms are defined as follows:

**ACCESSORY BUILDING** -- A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**ACCESSORY STRUCTURE** -- A structure or building that is used incidentally to the principal use of a building or lot. Swimming pools, garages, carports, tool sheds, carriage houses, and pool houses are deemed accessory structures or buildings restricted to residential use.

**ACCESSORY USE** -- A use customarily incidental and subordinate to the principal use of a building on the same lot with such principal use of the building.

**ADDITION** -- New construction added to an existing building or structure.

**ADULT USE** -- An entertainment cabaret or nightclub, motion picture theater, massage, or retail establishment as defined below:

- (1) **ADULT BOOK AND/OR VIDEO STORE** -- An establishment having as a substantial or significant portion (more than twenty five (25) percent) of merchandise in number, value, or bulk, and/or more than ten percent (10%) floor area of its stock in trade books, magazines, periodicals, or other printed or digital matter or photographs, films, videos, digitalized compact discs, slides or other visual representations that are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, which are for sale, rent, or viewing on or off the premises.
- (2) **ADULT ENTERTAINMENT CABARET** -- A public or private establishment that regularly presents topless and/or bottomless dancers, strippers, waiters, or waitresses, lingerie models or exotic dancers, or other similar entertainment or films, motion pictures, digitalized compact discs or videos, slides or other photographic or digital material, or that utilizes employees who, as part of their employment, regularly expose patrons to specified sexual activities or specified anatomical areas.
- (3) **ADULT THEATER** -- A theater, concert hall, auditorium or similar establishment that, for any form of consideration regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.
- (4) **ADULT MOTION-PICTURE THEATER** -- Any motion-picture theater where, for any form of consideration, films, motion pictures, digitalized compact discs or videocassettes, slides or other photographic or digital reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (5) **MASSAGE ESTABLISHMENT** -- Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, or steam baths. This definition shall not be construed to include a hospital, nursing home, or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist, or barbershop or beauty salon, athletic club, health club, school, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

- (6) SPECIFIED SEXUAL ACTIVITIES -- Any of the following specified activities: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, oral copulation or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttocks, or breasts.

AGRICULTURAL DISTRICT -- The boundary of a farm operation located within an Agricultural District as defined by Article 25-AA of the Agriculture and Markets Law.

AGRICULTURE -- A "farm operation" as defined in Agriculture and Markets Law Article 25-AA, Section 301 (11) and all related definitions, which includes the use of land, buildings, structures, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise or a hobby, and including commercial horse boarding operations.

AGRICULTURAL DATA STATEMENT -- A form required to be completed per § 305-a of the New York State Agriculture and Markets Law, as part of any application for a Special Use Permit, Site Plan approval, Use Variance, or Subdivision approval requiring municipal review and approval that would occur on property within a New York State Certified Agricultural District containing a farm operation or property with boundaries within 500 feet of a farm operation located in an Agricultural District.

AGRICULTURE EQUIPMENT, SALES, SERVICE AND REPAIR -- Establishments selling, renting or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

AGRICULTURE, PERSONAL ACCESSORY -- The production, keeping or maintenance, of plants and animals by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.

AGRICULTURE, TEMPORARY WORKFORCE HOUSING -- A dwelling located on an agricultural property for the purpose of housing seasonal employees of that agricultural operation and their family in connection with an agricultural use that relies on seasonal employees who must be housed.

AGRITOURISM -- Activities, including the production of maple sap and pure maple products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

ALTERATION -- As applied to a building or structure, a change or rearrangement in the structural parts, or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERNATIVE ENERGY GENERATING EQUIPMENT OR FACILITY, ACCESSORY -- Equipment for the collection of solar, wind, or geothermal energy or its conversion to electrical energy for use on the same property or nearby properties, or for incidental sale to a public utility, when that equipment is accessory to a principal use of the property.

ALTERNATIVE ENERGY SYSTEMS -- Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

**AMATEUR RADIO TOWER** -- A radio tower related to amateur radio service subject to the provisions of 47 CFR Part 97 or any federal directive thereunder.

**ANIMAL DAY CARE** -- An establishment that provides daily pet care without overnight boarding. For purposes of this Chapter, an animal day care may include grooming services but shall not include "kennels", "animal shelters," "veterinary clinics" or "animal hospitals."

**ANIMAL SHELTER** -- Any structure or property that, houses stray, abandoned or owner-surrendered animals, except for fish, for impoundment purposes for future disposition including redemption, adoption, sale, or disposal. This use may include facilities for the destruction and disposal of animals. Foster home sites and mobile adoption sites may be utilized in the operation of the animal shelter. For purposes of this Chapter, the term "animal shelter" shall not include "kennels," "veterinary clinics" or "animal hospitals."

**AREA, FLOOR** -- The sum of the gross horizontal areas of the several floors of a building, including interior balconies, mezzanines, and basements, but excluding exterior balconies, unfinished basements, and attics. All horizontal dimensions of each floor area shall be measured by the exterior face of walls of each such floor, including the walls of roofed porches having more than one wall. The floor area of a building shall include the floor area of accessory buildings on the same lot, measured the same way.

**ART GALLERY** -- A structure or building utilized for the display and sale of artwork.

**ARTIST STUDIO** -- A workshop or workroom for the creation of fine arts and crafts such as painting, sculpturing, photography, or other handmade pieces of art. The space may include a residential unit and it may also include a teaching area for small groups of 10 or fewer.

**AUTO WRECKING** -- The dismantling or disassembling of used motor vehicles or the storage, sale, salvaging, or dumping of dismantled, partially dismantled, obsolete, or wrecked motor vehicles or their parts. As used in this definition, the term "vehicle" shall mean passenger-type automobile, truck, tractor/truck, trailer, bus, motorcycle, snowmobile, or other vehicle, however propelled, as well as tractors, bulldozers, machinery, and similar equipment.

**AVIATION LANDING FIELD/AIRPORT** -- Any area of land designated and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

**BAR** -- A place where the principal income is derived from the sale or serving of alcoholic beverages for consumption on the premises, with or without live entertainment. For purposes of this Chapter this definition also applies to the term "tavern."

**BASEMENT** -- That space of a building that is partly below grade that has more than half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building. For purposes of this Chapter, this definition also applies to the term "cellar."

**BATTERY(IES)** -- A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, that can charge, discharge, and store energy electrochemically. For the purposes of this Chapter, batteries utilized in consumer products are excluded from these requirements.

**BATTERY ENERGY STORAGE MANAGEMENT SYSTEM** -- An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

**BATTERY ENERGY STORAGE SYSTEM** -- One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve (12)-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

- (1) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- (2) Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

**BED AND BREAKFAST** -- An owner-occupied single dwelling unit in which at least one, but not more than four, sleeping rooms are provided by the owner-occupant as overnight/lodging facilities, with or without meals, for the accommodation of transient guests.

**BERM** -- A human-made mound of earth designed for decorative, screening, or buffering purposes.

**BILLBOARD** -- See OFF-PREMISES SIGN.

**BOARDING HOUSE** -- See GROUP DWELLING.

**BOAT LAUNCH** -- A place, site, or structure to facilitate the ingress or egress of a watercraft into or onto a body of water.

**BREW PUB** -- An eating and drinking establishment where beer is prepared on the premises for on-site consumption. The brewing of such beer is accessory to the eating and drinking establishment. See also MICRO-BREWERY.

**BROADCASTING FACILITY, RADIO, OR TELEVISION** -- Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

**BUILDING** -- Any roofed structure intended for the shelter, housing, or enclosure of persons, animals, or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

**BUILDING AREA** -- The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, parapets, steps, and terraces.

**BUILDING COVERAGE** -- That area of the lot or plot covered by a building.

**BUILDING, DETACHED** -- A building surrounded by open space on all sides on the same lot.

**BUILDING HEIGHT** -- The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

**BUILDING-INTERGRATED PHOTOVOLTAIC (BIPV)** -- The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass.



Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

**BULLETIN / ANNOUNCEMENT BOARD** -- A sign display which advertises a periodic calendar of events scheduled to occur on the same property. Such bulletin boards have copy that is changeable at not less than weekly intervals of time. For purposes of this Chapter, the definition of bulletin board shall also include "announcement boards."

**BUSINESS INCUBATOR** -- A facility or building, or portion thereof that houses a variety of small entrepreneurial businesses that may or may not share space and resources in common areas. Businesses may include any commercial or industrial uses permitted in the zoning district in which it is located.

**CAFÉ** -- A small restaurant, coffeehouse, or delicatessen of no more than 1,000 square feet of gross floor area where beverages and/or food are served for consumption on and/or off premises.

**CALIPER** -- The diameter of a tree trunk.

**CAMPGROUND** -- Any area with five (5) or more camp sites designed for transient occupancy by camping in tents, lean-tos, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter and for a fee. This definition shall not include a manufactured home park, boarding house, hotel, or motel.

**CANNABIS ACTIVITY, COMMERCIAL** -- The production, cultivation, manufacturing, processing, possession, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as defined in the NYS Marijuana Regulation and Taxation Law.

**CANNABIS CULTIVATION** -- The growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders. For purposes of this Chapter, cannabis cultivation shall be considered a "light industrial" use and shall not be considered an "agricultural use."

**CANNABIS DISPENSARY** -- An establishment used exclusively for the retail sale of cannabis and as otherwise defined in the NYS Marijuana Regulation and Taxation Law that is registered to operate in the State of New York. For purposes of this Chapter, a cannabis dispensary is a "retail sales establishment."

**CANNABIS PROCESSOR** -- A licensee as defined and regulated by the NYS Marijuana Regulation and Taxation Law that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products, but not the cultivation of the cannabis contained in the cannabis product. For purposes of this Chapter a cannabis processor is a "manufacturing use."

**CANNABIS PRODUCT OR ADULT-USE CANNABIS PRODUCT** -- Cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer and as defined in the NYS Marijuana Regulation and Taxation Law.

**CANNABIS, RETAIL SALE** -- The solicitation or receipt of an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

CANOPY -- A roof free of enclosing walls over an entrance to a building or structure, or over a fuel pump island. Said roof may be free standing or attached to the building or structure.

CANOPY, PUMP ISLAND -- Any structural protective cover that is not enclosed on any of its four sides and is provided to designate a service area for the dispensing or installation of gasoline, electric vehicle charging stations, oil, antifreeze, headlights, wiper blades, and similar products.

CARPORT -- A roofed structure not more than seventy-five percent (75%) enclosed by walls and attached to the main building for the purpose of providing shelter for one or more motor vehicles. See also CARPORT, TEMPORARY.

CARPORT, TEMPORARY -- An accessory structure made of canvas, aluminum, or similar materials, or any combination thereof, on movable framing for the shade and shelter of motorized vehicles.

CAR WASH -- A structure or building designed for the washing, waxing, or similar treatment of automobiles as its principal function.

CEMETERY -- Property used for the interring of the dead. This use shall not include facilities for cremation.

CIDERY -- Any place or premises wherein cider is manufactured for sale.

CLINIC -- An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not usually lodged overnight.

CLUB/LODGE, MEMBERSHIP -- An association of persons for the promotion of some lawful nonprofit common objective, such as literature, science, politics, good fellowship, or community service, which meets periodically in a building, the use of such building being restricted to members and their guests.

CO-HOUSING -- A planned community of privately owned dwellings with shared common living spaces and facilities; open spaces and recreation; and other amenities.

COLLECTIVE SOLAR -- Installations of Solar Energy Systems that are owned collectively through a homeowner's association, community or municipal system, "adopt-a-solar- panel" programs, or other similar arrangements.

COLLEGE/UNIVERSITY -- An educational institution authorized by New York State to award associate, bachelor, master, or doctoral degrees and theological schools. College/university may also include related ancillary facilities, such as cafeterias, restaurants, bars, retail sales, indoor/outdoor recreational facilities, research facilities, and similar uses.

COMMUNITY CENTER -- A nonprofit or publicly owned facility providing community resources such as recreational programs and meeting rooms that are open to the public and designed to accommodate and serve significant segments of the community.

COMMUNITY GARDEN -- A plot of land owned or leased by a nonprofit organization, utilized for the sole purpose of planting and harvesting plants and vegetables by members of the community who contract with said organization for this purpose.

**COMMUNITY SUPPORTED AGRICULTURE** -- Community Supported Agriculture (CSA) is an alternative, locally-based socio-economic model of agriculture and food distribution. A CSA also refers to a particular network or association of individuals who have pledged to support one or more local farms, with growers and consumers sharing the risks and benefits of good production. CSAs shall consist of land used for cultivation of fruits, vegetables, plants, flowers or herbs by multiple users.

**CONSERVATION EASEMENT** -- A voluntary agreement between a private landowner and a municipal agency or qualified nonprofit corporation to restrict the development, management, or use of the land. Such agency or qualified nonprofit corporation holds the interest and is empowered to enforce its restrictions against the current landowner and all subsequent owners of the land.

**CONSTRUCTION YARD/CONTRACTOR'S STORAGE YARD** -- A use accessory to a contracting business that stores and maintains construction equipment and other materials and facilities customarily required in the building trade by a construction contractor, such as, but not limited to: carpenters, electricians, masons, site work contractors, plumbers, HVAC technicians, or general contractors.

**CONTRACTING BUSINESS** -- An office and/or shop which contains a contractor's business office, and which may also include enclosed structures used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials.

**CONVENIENCE STORE** -- Any retail establishment containing less than 5,000 square feet offering for sale prepackaged food products, household items, newspapers and magazines, or sandwiches or other freshly prepared foods, such as salads, for off-site consumption. For purposes of this definition a convenience store does not include the dispensing of gasoline.

**CONVENTION/CONFERENCE CENTER** -- A commercial facility used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, food and beverage preparation and service for on-premises consumption. This term does not include banquet halls, clubs, lodges, or other meeting facilities of private or nonprofit groups that are primarily used by group members.

**CULTURAL FACILITY** -- A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**CUSTOMARY ACCESSORY USE** -- an accessory use that is customary to a principal building including a private garage, parking area or lot, patio, garden, or storage shed, pools and ball courts.

**DAY CARE, ADULT** -- Provision of daytime care to adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities. Said care shall be provided for a period of time of more than three but fewer than twelve (12) hours on any given day.

**DAY CARE CENTER** -- Any establishment, licensed pursuant to NYS Social Service Law §390, shall mean any program or facility caring for children for more than three (3) hours per day per child, where child day care is provided by a childcare provider except those programs operating as a group family day care home, a family day care home, and a school-age childcare program.

**DAY CARE HOME, CHILD FAMILY/GROUP FAMILY** -- A program, licensed pursuant to NYS Social Service Law §390, caring for children for more than three (3) hours per day per child, where childcare is provided in a family home for up to ten (10) children of all ages, or up to twelve (12) children where all of such children are over two (2) years of age, except for those programs operating as family day care

homes where care for seven (7) or eight (8) children. A group family day care provider may provide childcare services to two (2) additional children if such additional children are of school age and receive services only before or after the period they are ordinarily in school or during school lunch periods or school holidays, or during those periods of the year when school is not in session.

DENSITY -- The lot area per dwelling unit required in the zoning district regulations.

DEVELOPMENT -- Any human-made change to improved or unimproved real estate, including but not limited to construction, alteration, renovation, or rehabilitation of buildings or other structures, as well as clear-cutting, mining, dredging, filling, paving, excavations, or drilling operations.

DISTRIBUTION/WHOLESALE FACILITY -- A structure used for the acceptance of bulk deliveries, storage of the delivered items, and re-distribution of delivered items.

DOCK -- A structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

DORMITORY -- A building utilized as a residence exclusively for students of a college, university, or school.

DRIVE-THROUGH SERVICE FACILITY (or WINDOW) -- Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. A gasoline service station is not considered a drive-through facility for purposes of this Chapter.

DRIVEWAY -- A private way providing vehicular access from a public or private road to a single lot, facility, or establishment.

DRIVEWAY, SHARED -- A private deeded right-of-way which serves as the access to at least two (2) lots or parcels of land.

DRY CLEANER, SERVICE ONLY -- An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or drycleaning equipment or machinery on the premises.

DUMPSTER -- An exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle. For purposes of this Chapter, this is also the definition of the term "roll-off."

DWELLING -- A building with a foundation arranged, intended, or designed to be occupied by one or more families or functional family units living independently of each other upon the premises.

DWELLING, GROUP -- A building or a portion thereof with sleeping and living accommodations for four or more persons who are not a family or functional family unit, used or occupied as a dormitory, fraternity, sorority, boardinghouse, or rooming house. This term shall not include transient lodging accommodations such as bed and breakfasts, hotels, or motels.

DWELLING, MULTI-FAMILY -- A building or group of buildings occupied exclusively for residential purposes, having dwelling units to accommodate three (3) or more families or functional family units living independently of each other, with or without communal amenities such as dining facilities and social

spaces, fitness and recreation amenities, or social programming. This definition shall exclude hotels, group dwellings, and rooming houses.

DWELLING, SINGLE-FAMILY -- A building occupied exclusively for residential purposes by an individual or family or a functional family unit.

DWELLING, TWO-FAMILY -- A building occupied exclusively for residential purposes, having dwelling units to accommodate up to two (2) families or functional family units living independently of each other.

DWELLING UNIT -- One or more rooms designed or used for living quarters by an individual family or functional family unit including provisions for living, cooking, sanitary and sleeping facilities, and having a separate entrance from the outside of the building or through a common hall.

DWELLING UNIT, ACCESSORY -- A secondary dwelling unit of 800 square feet or less of habitable space, established in conjunction with, and clearly subordinate to, a primary dwelling unit which may or may not be located in the same building.

EASEMENT -- An interest in real property generally established in a real estate document or on a recorded plat to reserve, convey or dedicate the use of land for a specialized or limited purpose without the transfer of fee title. Such specified uses may include, but are not limited to, transportation facilities, utilities, access, stormwater drainage, and solar exposure.

ELECTRIC VEHICLE CHARGING STATION -- A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

ELECTRIC VEHICLE INFRASTRUCTURE -- The structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

ENERGY CODE -- The New York State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

ENTERTAINMENT (AMUSEMENT) FACILITY, INDOOR -- Any establishment that is operated, maintained as a business and open to the public for a fee and devoted to amusement activities conducted inside. Such facilities shall include, but not be limited to theaters, movie theaters, dance halls or clubs, and video arcades. Entertainment facilities shall not include shooting ranges, bars, pubs, adult uses, nightclubs. See also RECREATION FACILITY, INDOOR.

EVENT/RECEPTION FACILITY -- Any place of business maintained, in whole or in part, for public rental for the purpose of private party events, whether family, group, or corporate in nature, where access by the general public is restricted, and with or without the sale, serving, or consumption of food and/or alcoholic beverages. For purposes of this Chapter this definition shall also include "banquet hall."

- (3) A group of individuals living together in a single dwelling unit shall be presumed not to be a functional family unit, as defined in this Section, if said dwelling unit is occupied by four or more persons who are not related by blood, marriage, legal adoption, or guardianship.
- (4) A group of individuals living together in a single dwelling unit shall be presumed not to be a functional family unit, as defined in this Section, if said dwelling unit contains four (4) or more

college students over the age of sixteen (16) years. A college student is a person who attends, at least half time, any college, university, or other institution authorized to confer degrees by the State of New York.

- (5) The presumptions set forth in paragraphs (4) and (5) of this definition may be rebutted by sufficient evidence of the characteristics set forth in paragraph (3) of this definition.

**EXTRACTION, COMMERCIAL** -- The act of removing more than 750 cubic yards of any natural resources in any one-year period from the land, including, but not limited to, the removal of earth, rock, gravel, sand and underground materials, excluding timber and water; the preparation and processing of those same natural resources, including any activities or processes or parts thereof for the extraction or removal 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; for the purpose of sale. Commercial extraction excludes any other manufacturing processes, or other related commercial activities at the same property location. Commercial extraction shall not include site preparation activities that receive and maintain a construction exemption from the New York State Department of Environmental Conservation or excavations in aid of agricultural activities consistent with New York State Agricultural and Markets Law, as amended. For purposes of this law this definition shall not include natural gas and or petroleum exploration, any natural gas and or petroleum extraction or any natural gas and or petroleum support activities.

**EXTRACTION, PRIVATE** -- Any extraction from the land of sand, gravel, or topsoil by the owner of the land, or any extraction for the purpose of sale of less than 750 cubic yards of said materials in any oneyear period.

**FAMILY –**

- (1) A family shall include one or more individuals related by blood, marriage, legal adoption, or guardianship who live together in a single dwelling unit, including domestic help.
- (2) A family shall also be composed of one or more individuals living together in a single dwelling unit as a functional family unit, including domestic help. Said individuals shall have a domestic bond and function as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods.
- (3) In determining whether individuals are living together as a functional family unit, the following criteria must be present:
  - (a) The group is one that in theory, size, appearance, structure, and function resembles a family unit.
  - (b) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers shall not be deemed to be occupied by a functional family unit.
  - (c) The group shares expenses for food, rent, or ownership costs, utilities, and other household expenses.
  - (d) The group is permanent and stable. Evidence of such permanency and stability may include the following:

- [1] The presence of minor dependent children regularly residing in the household and being educated in the community or enrolled in area schools;
- [2] Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration, the filing of taxes, and with regard to summer or other residences;
- [3] Members of the household are employed in the area;
- [4] The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units;
- [5] There is common ownership of furniture and appliances among the members of the household; and
- [6] The group is not transient or temporary in nature.
  - (e) Any other factor reasonably related to whether or not the group is a functional family unit.

**FARMLAND OF STATEWIDE IMPORTANCE** -- Land, designated as "Farmland of Statewide Importance" by the U.S. Department of Agriculture Natural Resources Conservation Service, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

**FEATHER FLAG** -- A sign that is a vertically oriented banner attached to a single pole allowing the fabric to hang loose at one, two, or three of the four corners.

**FINANCIAL INSTITUTION** -- A building or structure utilized for the direct transactional services to the public, including the maintenance of checking and savings accounts, certificates of deposits, etc., and the providing of related incidental financial services associated with a bank.

**FITNESS CENTER, HEALTH CLUB, or SPA** -- A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or nonprofit, which can be open only to bona fide members and guests of the organization or open to the public for a fee.

**FLAG LOT** -- A lot, the major portion of which has access to a road or street by means of a narrow strip of land (the "pole") that does not meet the required minimum lot frontage. The major portion of the lot (the "flag") is generally located behind another lot fronting the street.

**FOOD TRUCK/MOBILE RETAIL VENDOR** -- A readily movable, motorized wheeled vehicle, or a towed wheeled vehicle, designed and equipped as a retail establishment, typically a food truck or food trailer, but which may be any kind of retail vendor.

**FOOTCANDLE** -- A unit of illumination produced on a surface, all points of which are one foot from a uniform point source equivalent to one candle in brightness of illumination. Footcandle measurements shall be made with a photometric light meter and with a specified horizontal orientation.

**FUEL PUMP** – Any device that dispenses automotive fuel and/or kerosene into vehicles or appropriate containers. A fuel pump may contain multiple hoses or be capable of serving more than one fueling position simultaneously.

**FUEL PUMP ISLAND** -- A structure consisting of fuel dispensers, refuse containers, automated payment points, safety bollards, and other related appurtenances.

**FULL CUTOFF OR FULL SHIELDED TYPE FIXTURE** -- An outdoor lighting fixture that is shielded or constructed so all light emitted is projected below a horizontal plane running through the lowest lightemitting part of the fixture.

**FUNERAL HOME** -- A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. Such facilities shall not include crematoriums.

**GARAGE, PRIVATE** -- A roofed space for the storage of one or more motor vehicles, provided that no business, occupation, or service is conducted for profit therein, nor is space therein for more than one car leased to a nonresident of the premises.

**GARAGE SALE** -- A sale that is conducted, or that is permitted or allowed to be conducted, by the owner or occupant dwelling designed for human habitation and located in a residential area where any goods or merchandise are displayed outdoors and the public is invited by signs, advertising, or in any other manner to come for the purpose of purchasing goods, wares, or merchandise. For purposes of this Chapter, this definition shall also mean and include "lawn sale," "attic sale," "yard sale," "rummage sale," or any similar casual sale of tangible personal property that is advertised by any means whereby the public at large is or can be made aware of such sale.

**GARDEN CENTER** -- An establishment that includes indoor and/or outdoor retail sales of plants not grown on the site, lawn furniture, and garden supplies.

**GASOLINE SERVICE STATION** -- Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories, where repair service, if any, is incidental. A gasoline service station may include electric vehicle charging stations and the sale of propane or kerosene as accessory uses.

**GLARE** -- A continuous source of excessive brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

**GLINT** -- A momentary flash of light that may be produced as a direct reflection of the sun on a solar collection system.

**GOVERNMENT FACILITIES** -- Basic government services, which also may be provided by a private enterprise, essential to the support of the community, including municipal offices and buildings, emergency services such as ambulance and fire protection, water supply and sewage treatment facilities. This definition does not include community centers, public utilities, or public transportation shelters. See also **MUNICIPAL FACILITIES, ESSENTIAL**.

**GRADE** -- The finished ground level adjoining the building at all exterior walls.



**GREENHOUSE** -- A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

**GREENWAY** -- A linear open space established along either a natural corridor, such as a riverfront, stream valley or ridge line, abandoned railroad tracks, converted to recreational use, a canal, a scenic road or other route, any natural or landscaped course for pedestrian and/or bicycle passage.

**GROSS FLOOR AREA** -- The aggregate floor area of an entire building or structure enclosed by and including the surrounding exterior walls.

**HOME OCCUPATION** -- (See also §70-57 of this Chapter for further definition of a Minor Home Occupation and a Major Home-Occupation) An occupation carried on in a dwelling unit or accessory structure by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOSPITAL/MEDICAL CENTER** -- A duly licensed institution providing medical or surgical care and treatment for the sick and injured. A hospital or medical center may also include related ancillary facilities, such as laboratories, outpatient clinics, cafeterias, gifts shops, training facilities, classrooms, and offices integral to the function of the facility.

**HOTEL** -- A facility offering transient lodging accommodations at a daily rate to the general public. It may provide additional services such as restaurants, meeting rooms, and recreational facilities. For purposes of this Chapter, this definition shall also apply to the term "inn" or "hostel."

**IMPERVIOUS SURFACE** -- Any hard-surfaced, human-made area that does not readily absorb or retain water, including but not limited to building roofs, parking, and driveway areas (paved or gravel), sidewalks, patios and paved recreation areas.

**IMPERVIOUS SURFACE COVERAGE** -- The percentage of the area of a lot that is covered by impervious surface.

**INDUSTRY, CRAFT/ARTISAN** -- The craft industry encompasses goods that are generally handmade by artisans or those skilled in a particular trade, although machinery may be used. Small businesses engaged in the craft trade industry may include but are not limited to art galleries, handmade textiles, woodworking, and culinary products.

**INDUSTRY, HEAVY** -- The processing, manufacturing, or compounding of materials, products, or energy or any industrial activities that, because of their scale or method of operation, regularly produce noise, heat, glare, dust, smoke, fumes, odors, vibration, or other external impacts detectable beyond the lot lines of the property.

**INDUSTRY, LIGHT** -- The processing or manufacturing of finished products or parts from previously prepared products or parts including the fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided that all process are contained entirely within a fully enclosed building and any heat, glare, dust, smoke, fumes, odors, or vibration are confined to the building. Light industry may include uses such as the manufacture of electronic instruments, preparation of food products and alcoholic beverages, pharmaceutical manufacturing, research and scientific laboratories.

INN – See HOTEL.

JUNK -- Shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, scrapped, ruined, dismantled or wrecked motor vehicles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material tires, lumber, pallets, and other wood debris.

JUNKYARD -- Any lot or area of land, place of storage or deposit, whether in connection with another business or not, where more than two unregistered, old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such terms shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which taken together, equal in bulk two or more such vehicles, provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

KENNEL, BOARDING OR BREEDING -- Any establishment where four or more dogs, cats and/or other animals (not including livestock) are cared for or sheltered for the purpose of sale, breeding, training, or exhibition, or are boarded for a fee. For purposes of this Chapter, the term "kennel" does not include establishments that exclusively provide animal day care without overnight boarding, "animal shelters," "veterinary clinics or "animal hospitals" or pet stores.

LAND USE ACTIVITY -- Any construction or other activity that changes the use or appearance of land or a structure or the intensity of use of land or a structure. Land use activity shall explicitly include, but not be limited to, the following: new structures; expansions to existing structures; new uses; changes in or expansion of existing uses, roads, driveways; and excavations for the purpose of extracting soil or mineral deposits.

LAUNDROMAT/LAUNDERETTE -- A business premises equipped with individual washer/dryers for a service to, or self-serve use by, retail customers, including drop-off and off-premises cleaning.

LIBRARY -- A building or room in which literary, musical, artistic or reference materials are kept for use; may be borrowed; but are generally not for sale.

LIGHT FIXTURE -- The assembly that holds a lamp and may include an assembly housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

LIVING AREA – The area of a dwelling unit as measured from exterior faces of exterior walls, exclusive of garages, cellars, and unenclosed porches.

LOT -- A tract, plot, or parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest, and including such open spaces as are required by this Chapter, and having its principal frontage on a public street or an officially approved place.

LOT AREA -- The total area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

LOT, CORNER -- A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of intersection of less than 135°.

LOT DEPTH -- The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR -- A lot other than a corner lot.

LOT LINES -- The property lines bounding the lot.

LOT LINE, FRONT -- The lot line separating the lot from the primary street right-of-way.

LOT LINE, REAR -- The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE -- Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

LOT OF RECORD -- Any lot that has been established as such by plat, survey record, or deed prior to the date of this Chapter as shown on the records in the office of the County Clerk.

LOT, THROUGH -- A lot having frontage on two approximately parallel or converging streets, other than a corner lot.

LOT WIDTH -- The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line at the minimum required building front setback line.

LUMEN -- Measure of overall light output produced by a lamp.

MACHINE SERVICE SHOP -- A workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

MAKERSPACE -- A collaborative workspace where individuals or entities may utilize common space, technology, equipment, and other infrastructure.

MANUFACTURED HOME PARK -- A plot or tract of land separated into two (2) or more spaces or lots, which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences.

MANUFACTURED HOME -- A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the US Department of Housing and Urban Development (HUD), Manufactured Home Construction Safety Standards, 24 CFR Part 3280, 4/1/93, transportable in one or more sections, constructed on a permanent chassis and designed to be used with or without a permanent foundation where connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems contained therein. This definition shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME SITE -- A plot of land within a manufactured home park that is designated for, and designated as, the location for only one manufactured home and customary accessory uses.

MANUFACTURING -- The making or fabrication of raw material by hand, art, machinery, or combination thereof, into finished parts or products.

**MEAN HIGH WATER MARK** -- The average annual high-water level of a lake, pond, reservoir, river, stream, creek, or other body of water.

**MEDICAL OFFICE/CLINIC** -- A structure or portion of a structure used by physicians, surgeons, dentists, chiropractors, optometrists, psychologists, psychiatrists, or other health-related professionals for the treatment of human health conditions where no overnight accommodations are provided.

**METHANE (ANAEROBIC) DIGESTER FACILITY** -- A facility commonly referred to as an AD (anaerobic digester), that promotes the decomposition of manure or 'digestion' of the organics in manure to simple organics and gaseous biogas products.

**MICRO-BREWERY** -- A facility that produces fewer than 15,000 barrels of beer annually, with seventyfive percent (75%) or more of its beer served off site. See also **BREW PUB**.

**MICRO-DISTILLERY** -- A facility that produces fewer than 75,000 gallons of distilled spirits per year.

**MODULAR BUILDING** -- A commercial or residential structure constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, and whereby all portions may not be reasonably inspected at the installation site without disassembly or destruction thereof. The term includes buildings intended or designed for permanent installation, or assembly and permanent installation, on a building site.

**MOTEL** -- A building or group of detached or connected buildings designed or used for providing transient sleeping accommodations where each accommodation unit maintains a separate outside entrance.

**MOTORIZED VEHICLE** -- shall mean passenger-type automobile, truck, tractor-truck, trailer, bus, motorcycle, snowmobile, or other vehicle, however propelled, as well as tractors, bulldozers, machinery, and similar equipment.

**MOTORIZED VEHICLE REPAIR (GARAGE), MAJOR** -- A service establishment providing all general repair, rebuilding, or reconditioning of engines, motorized vehicles, or trailers, such as collision service, body repair, frame straightening, welding, and painting, and may also include any activities provided by minor motor vehicle repair garages as defined in this Chapter.

**MOTORIZED VEHICLE REPAIR (GARAGE), MINOR** -- A service establishment with up to two (2) bays or repair areas, providing minor repairs, detailing, stereo and electronic equipment installation, incidental replacement of parts, and motor service for motorized vehicles.

**MOTORIZED VEHICLE SALES, LEASE AND/OR RENTAL** -- The use of a building, land area, or other premises or portion thereof, for the display, sale, rental, or lease of motorized vehicles, including but not limited to automobiles, boats, motorcycles, recreational vehicles (RVs), including any warranty repair work and other repair service conducted as an accessory use.

**MUNICIPAL FACILITIES, ESSENTIAL** -- The essential services furnished by the Town including municipal offices and buildings, emergency services such as police, ambulance, and fire protection. See also **GOVERNMENT FACILITIES, GENERAL**. This definition does not include community centers or public utilities.

**NATURAL AREA** -- An area of land and/or water that has a predominantly undeveloped character. Natural areas may be pristine or may have been affected by human activity such as vegetation removal, agriculture, grading, or drainage if such areas retain significant natural characteristics or have recovered

to the extent that they contribute to natural systems including hydrology, vegetation, or wildlife habitat. The purpose of natural areas is to protect natural processes and vegetation and/or provide a scenic, aesthetic appearance and/or passive recreational uses that may include amenities such as trails, seating, and interpretive areas and signage.

**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 seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search for and evaluation of natural gas, petroleum or other subsurface hydrocarbon deposits.

**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, including without limitation, any and all forms of shale fracturing.

**NONCONFORMING LOT** -- A lot of record that does not comply with the area, shape, frontage, or locational provisions of this Chapter for the district in which it is located.

**NONCONFORMING STRUCTURE** -- A building or structure that was lawfully erected prior to the adoption or amendment of this Chapter but that no longer complies with all regulations applicable to the zoning district in which the structure is located.

**NONCONFORMING USE** -- A use or activity that lawfully existed prior to the adoption or amendment of this Chapter but fails by reason of such adoption or amendment to conform to the present use requirements of the district in which it is located.

**NURSING HOME** -- See RESIDENTIAL CARE FACILITY.

**OFFICE, PROFESSIONAL OR GENERAL** -- A building or portion thereof used primarily for conducting the affairs of a business, profession, service, industry, or government, and generally furnished with desks, tables, files, and communication equipment. No manufacturing processes, retail sales, construction, or warehousing occur on the premises.

**OFFICIAL NEWSPAPER** -- The newspaper or newspapers designated by the Town for the publication of official notices of meetings and public hearings.

**OPEN AIR MARKET** -- An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures. Open air markets include, but are not limited to flea markets, farmers markets, and craft fairs.

**OPEN SPACE** -- An unoccupied space open to the sky and unoccupied by buildings or obstructions.

**OUTDOOR SEATING/DINING AREA** -- An area outside of a restaurant or similar use that provides seating for customers.

**OUTDOOR WOOD BOILER** -- A fuel burning device that is:

- (1) designed to burn wood or other fuels;

- (2) specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and
- (3) used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

**PARK/PLAYGROUND** -- A private or public open area for recreation, which may include accessory parking areas, shelters, picnic tables, restrooms, and other facilities for the use of park patrons. May also be a defined open space, typically interspersed within residential areas, that is designed and equipped for the recreation of children. Playgrounds may be free standing or located within parks, greens, or school sites.

**PARK, PUBLIC** -- Land that is publicly owned or controlled for the purpose of providing parks, recreation, or open space for public use.

**PARKING AS A PRINCIPAL USE** -- A lot or structure with the sole purpose of temporary parking of registered motor vehicles.

**PARKING LOT** -- A lot devoted to the temporary parking of automobiles defined by a boundary, with parking spaces delineated.

**PARKING, SHARED** -- Two or more land uses or a multi-tenant building that merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface, and result in a superior grouping of building(s).

**PARKING SPACE** -- An off-street space available for the parking of one motor vehicle.

**PARKING STRUCTURE** -- A structure or building used to park cars, including parking garages, parking decks, and underground parking.

**PASSENGER TERMINAL** -- A commercial facility for handling, receiving, and transferring passenger traffic including by car, bus, or train. See also **PUBLIC TRANSPORTATION FACILITY**.

**PERSON** -- One or more natural persons, corporations, partnerships, associations, and all other entities of any kind, including the agents and employees of same.

**PLAT** -- A map drawn to scale showing the divisions of a piece of land or layout of a proposed subdivision.

**PORTABLE STORAGE CONTAINER** -- A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. This term shall not include sheds, dumpsters/roll-off containers or storage containers having storage capacity of less than 150 cubic feet.

**PRIME FARMLAND** -- Land designated by the U.S. Department of Agriculture as land 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. For purposes of this Law this shall not include soils that are only prime farmland if well-drained.

**PUBLIC UTILITY, MAJOR** -- Large-scale facilities that primarily serve a regional need, which because of their scale or method of operation are more likely to produce external impacts that are detectable beyond property lines of the subject property. Such facilities include, but are not limited to, electric or gas

generation plants and high voltage transmission lines. For purposes of this Chapter, telecommunications facilities, major solar collection systems, wind energy conversion systems and battery energy storage systems are separately defined and not included in this definition.

**PUBLIC UTILITY, MINOR** -- Facilities and services that primarily serve local distribution needs, including but not limited to electrical transforming substations, gas regulating stations. For purposes of this Chapter, telecommunications facilities, broadcasting facilities, major solar collection systems, wind energy conversion systems and battery energy storage systems are separately defined and are not included in this definition.

**RACETRACK, MOTOR SPORT** -- A recreational course operated for profit, or by a private organization or not-for-profit organization, where motorized vehicles practice and/or compete against one another or against time, including but not limited to car, truck, moto-cross, all-terrain vehicle, and go-cart racing. This definition shall not include trails and tracks utilized for personal use accessory to another principal use.

**RECREATION FACILITY** -- A place designed and equipped for the conduct of leisure-time activities and sports. This includes facilities for passive and active recreation.

**RECREATION FACILITY, COMMERCIAL** -- A recreation facility operated as a business and open to the public for a fee.

**RECREATION FACILITY, INDOOR** -- An establishment that is operated, maintained, or devoted to indoor recreational activities. Recreation facilities may include but are not limited to bowling alleys, athletic fields and courts, batting cages, miniature golf courses, skating rinks, fitness clubs and spas. For purposes of this Chapter, the term recreation facilities shall not include "shooting ranges." See also **ENTERTAINMENT/AMUSEMENT FACILITY, INDOOR**.

**RECREATION FACILITY, OUTDOOR** -- The entertainment or recreation is offered by the facility and the principal activity is conducted outside. Such facilities shall include, but not be limited to, skating rinks, batting cages, athletic fields and courts, swimming pools, golf courses, and miniature golf courses. For purposes of this Chapter, the term recreational facilities shall not include "shooting ranges," "racetracks" or recreational courses for the purpose of racing motorized vehicles such as, but not limited to, go-carts and moto-cross racing.

**RECREATION FACILITY, PRIVATE** -- A recreational facility operated by a private organization, including not-for-profit organizations, open only to bona-fide members or guests.

**RECREATION FACILITY, PERSONAL** -- A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

**RECREATION FACILITY, PUBLIC** -- Recreation facilities operated by, or on behalf of a governmental entity and open to the general public.

**RECREATIONAL VEHICLE (RV)** -- Any portable vehicle or structure designed to be self-propelled or permanently towable on its own wheels, sometimes referred to as a "fifth-wheel" or "tow-behind," which is designed and intended to be used for temporary living quarters for travel, recreation, or vacation purposes.

**RECYCLING FACILITY** -- A building or area of land that serves as a drop-off point for temporary storage for recoverable resources, such as newspapers, glassware, plastics, and metal cans, for shipment to a

recycling processor or distributor, but at which no processing of such items occurs. See also RECYCLABLE HANDLING AND RECOVERY FACILITY.

RECYCLABLE HANDLING AND RECOVERY FACILITY -- A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

RELIGIOUS INSTITUTION -- A building where persons regularly assemble for religious worship and maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. For purposes of this Chapter the definition includes "church," "synagogue," "temple," "mosque," or other such place of worship and religious activity.

RESEARCH AND LABORATORY FACILITY -- A building or portion of a building in which facilities for scientific research, investigation, testing, or experimentation are located, but not facilities for manufacturing or sales of products.

RESIDENCE, COMMUNITY (GROUP HOME) -- As defined in §463 of the New York State Social Services Law, it is a facility operated or subject to licensure by the state that provides a supervised residence for emotionally, physically, or socially disabled persons or for persons in need of supervision or juvenile delinquents. This term includes, but is not limited to, agency operated boarding homes, group homes or private proprietary homes for adults operated or licensed by the Department of Social Services, group homes operated by, contracted for, or licensed by, the Division for Youth and half-way houses operated or licensed by the Division of Substance Abuse Services. The term does not include community residential facilities for the disabled as defined in §41.34 of the New York State Mental Hygiene Law.

RESIDENTIAL CARE FACILITY -- Any building used as a group residence or extended care facility for the care of persons, including assisted living facilities and nursing homes, where compensation and/or reimbursement of costs is paid to an operator, pursuant to State or Federal standards, licensing requirements, or programs funding residential care services. See also RESIDENTIAL CARE FACILITY, COMMUNITY CARE.

RESTAURANT -- A business establishment whose principal business is the selling of prepared food and beverages to the customer in a ready-to-consume state. For purposes of this Chapter the term restaurant includes "sit-down restaurants" and "take-out restaurants."

RETAIL ESTABLISHMENT -- A building or portion thereof engaged in selling goods, services, or merchandise to the general public for personal and household consumption. For purposes of this Chapter, some retail establishments are also separately defined.

RIGHT-OF-WAY -- Property that is publicly owned or upon which a governmental entity has an expressed or implied property interest, e.g., fee title or easement, held for a public purpose. Examples of such public purpose include, by way of example and not by limitation, highways, streets, sidewalks, drainage facilities, crosswalks, railroads, roads, electric transmission lines, oil or gas pipelines, water mains, sanitary or storm sewer mains, or shade trees. The use of the term right-of-way for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distinct from the lots or parcels adjoining the right-of-way and is not included within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency are dedicated to public use by the maker of the plat on which the right-of-way is established.



**ROADSIDE STAND** -- A direct marketing operation offering outdoor shopping. Such an operation is seasonal in nature and features food stands such as, but not limited to locally produced agricultural products, enhanced agricultural products, and handmade crafts. For purposes of this Chapter, the definition includes "farm stands."

**SANDWICH BOARD** -- A portable sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and most often forming the cross-sectional shape of an "A."

**SAWMILL** -- A facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

**SCHOOL** -- A public or private facility furnishing comprehensive curriculum of academic instruction on the pre-kindergarten, kindergarten, primary, and/or secondary level.

**SCREENING** -- The act of placing landscape features, such as trees, bushes, shrubs, or human-made screens, such as fences or berms, to reduce the impact of development on nearby properties.

**SELF-STORAGE UNIT FACILITY** -- An establishment that permits customers to store their own materials in private, commercially available warehousing space in individual lockable units accessible from outside driveways or from indoor hallways.

**SELF-STORAGE FACILITY, MINI** -- A public facility for the temporary storage of personal, household, or business property that is serviced by the owner of the stored property or an agent of the owner of the stored property. The term "mini-self-storage facility" shall not be construed to mean warehouse and shall not be used for the transfer, shipping, or receiving of products or goods in conjunction with a business operation.

**SELF-STORAGE UNIT, MINI** -- A building or group of buildings divided into separate units or compartments not to exceed 200 square feet in size. Each unit or compartment shall be divided from the floor to the ceiling by a wall and shall have an independent entrance from the exterior of the unit. There shall be no electrical outlets permitted inside any unit.

**SENIOR HOUSING** -- A facility consisting of three or more dwelling units, the occupancy of which is limited to persons where at least one of the occupants is fifty-five (55) years of age or older. The facility may include medical facilities or care. Senior housing shall typically consist of attached dwelling units but may include detached dwelling units as part of a wholly owned and managed senior development.

**SEQRA** -- Refers to the State Environmental Quality Review Act, the regulations related to which can be found in Environmental Conservation Law Article 8, and implemented by Title 6 of the Codes, Rules, & Regulations of New York (NYCRR) Part 617.

**SERVICE ESTABLISHMENT** -- An establishment or place of business primarily engaged in the provision of frequent or recurrent services or assistance, as opposed to products. This shall include personal, financial, repair, professional, or business services. For purposes of this Chapter, some service-related establishments are also separately defined.

**SETBACK** -- The minimum distance required for compliance with this Chapter as measured by the shortest horizontal line between any portion of any structure and the lot line, centerline of the street, human-made structure, or topographical or natural feature designated as being the reference point from which such minimum setback is measured.

**SHED** -- An accessory structure customarily incidental and subordinate to the principal structure and used primarily for storage purposes.

**SHOPPING CENTER** -- A group of four or more retail establishments sharing a common site and having either common walls or a common roof structure.

**SHORELINE** -- The line at which land adjoins the waters of lakes, ponds, rivers, and streams.

**SHORELINE FRONTAGE** -- The distance measured along the shoreline as it winds and turns between the boundary lines of a lot as they intersect the shorelines of any river.

**SHORELINE SETBACK** -- The minimum horizontal distance between any point of a building and the shoreline of any pond, brook, stream, or river.

**SIDEWALK** -- Any strip or section of concrete or granite the prime purpose of which is a walkway.

**SIGN** -- Any device affixed to or painted or represented directly or indirectly upon a building, structure, or land, that directs attention to an object, product, place, activity, person, institution, organization, or business, but not including any flag, badge, or insignia of any government or government agency, school, or religious group or of any civic, charitable, religious, patriotic, fraternal, or similar organization, nor any official traffic control device. Each display surface shall be considered to be a sign.

**SIGN, AWNING/CANOPY** -- A sign painted on, printed on, or attached flat against the surface of an awning/canopy made of canvas or fabric or similar material, which is affixed to a building and projects therefrom. Such signs may be retractable.

**SIGN, DIGITAL / ELECTRONIC MESSAGE CENTER** -- Any sign that contains liquid crystal diodes (LCD), light-emitting diodes (LED), plasma, light bulbs, or other digital illuminated displays that allow for fixed or changeable copy, symbols, figures, or images by remote or automatic means.

**SIGN, DIRECTIONAL** -- A sign conveying instructions regarding pedestrian and/or vehicular movement with respect to the premises on which it is located, such as the entrance and exit of a parking area.

**SIGN, DISPLAY AREA** -- The area that encloses the limits of the message, announcement, or decoration on a building or free-standing sign. For Digital signs and EMCs, the display area may equal the total allowed sign surface area.

**SIGN, FREESTANDING** -- A free-standing sign is defined as a permanent, self-supporting sign standing alone on its own foundation. This definition shall not include temporary or portable signs. This definition shall include "monument" signs.

**SIGN, OFF-PREMISES** -- A sign located on a parcel of land other than that parcel where the business, service or event advertised is located. For purposes of this Chapter this definition shall also include "billboards."

**SIGN, PROJECTING** -- A sign that projects more than twelve (12) inches perpendicular to the building's face.

**SIGN, TEMPORARY** -- A sign or advertising designed or intended to be displayed for a short period of time.

**SIGN, VEHICULAR** -- Any vehicle and/or trailer to which a sign is affixed in such a manner that the carrying of the sign is no longer incidental to the vehicle's purpose but becomes the primary purpose of the vehicle.

**SIGN, WALL** -- A wall sign is one that is painted on, or attached to, the outside wall of a building, with the face of the sign in the plane parallel to such wall.

**SIGN, WINDOW** -- A regulated window sign consists of individual letters, logos, or symbols applied to, stenciled on, or etched into the glass surface or within four (4) feet of the inside of a window, that is plainly visible from the exterior of the building. Window signs also include lighted signs with transparent backgrounds hung inside the window glass.

**SITE PLAN** -- A rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in Article IX of this Chapter, that shows the arrangement, layout, and design of the proposed use of a single parcel of land as shown on said plan.

**SLAUGHTERHOUSE** -- An establishment where animals are butchered for food.

**SOLAR ACCESS** -- Space that is open to the sun and clear of overhands or shade. Structures constructed on private property will not infringe on the rights of adjacent properties.

**SOLAR ENERGY SYSTEM** -- A solar collector or other device or structural design feature of a structure that relies upon the sun as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use. The following terms define different types of solar energy systems and components:

- (1) **BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM** -- A combination of photovoltaic building components integrated into any building envelope system such as vertical façades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.
- (2) **GROUND-MOUNTED SOLAR ENERGY SYSTEM** -- A solar energy system that is anchored to the ground and attached to a pole or other mounting system detached from any other structure.
- (3) **ROOF-MOUNTED SOLAR ENERGY SYSTEM** -- A solar energy system located on the roof of any legally permitted building or structure for the primary purpose of producing electricity for on-site or off-site consumption.
- (4) **SOLAR ENERGY EQUIPMENT/SYSTEMS** -- Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy.
- (5) **SOLAR PANEL** -- A device capable of collecting and converting solar energy into electrical energy.

**SOLAR ENERGY SYSTEM, AGRICULTURAL** -- An on-farm, small-scale solar energy system that provides no more than 110% of the energy required to operate a farm operation as defined by New York State Agriculture and Markets Law 305-a. These may be roof-mounted or ground-mounted systems.

**SOLAR ENERGY SYSTEM, LARGE-SCALE** -- A solar energy system that produces energy primarily for supplying more than 200 kW of electrical energy into a utility grid for wholesale or retail offsite sale or consumption whether generated by photovoltaics, solar thermal devices or other solar technologies, and whether ground-mounted or building-mounted. A large-scale solar energy system

may also be referred to as a 'solar plant', 'solar energy system', 'commercial solar energy system' or solar power plant'.

**SOLAR ENERGY SYSTEM, MEDIUM-SCALE** -- A ground mounted solar energy system or solar thermal system producing between 25kW and 200 kW of electricity.

**SOLAR ENERGY SYSTEM, SMALE SCALE** -- A roof-mounted or building-integrated solar energy system, or solar thermal system servicing primarily the building or buildings on the parcel on which the system is located for onsite consumption for either residential or business use, and limited to those rooftop and building-integrated, roof-mounted; or ground-mounted solar collectors that produce 25 kW or less electricity. An agricultural solar energy system shall be considered small-scale.

**SPECIAL USE** -- An allowed use in a district that, because of its unique characteristics, requires individual consideration by the Planning Board before it may be permitted.

**SPECIAL USE PERMIT** -- An authorization to use land in a way which is permitted by zoning, subject to requirements designed to assure that the proposed use is in harmony with the zoning law and the use will not adversely affect the neighborhood if the requirements are met. See Town Law Section 274-b(1).

**SPORTSMAN'S CLUB AND OUTDOOR SHOOTING RANGES** -- Establishments primarily engaged in providing opportunities for hunting, fishing, skeet, trap, target shooting and other shooting sports.

**STORAGE, OUTDOOR** -- The keeping of goods, wares, equipment, or supplies outside of a structure.

**STORY** -- That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF** -- That part of a building between a pitched roof and the uppermost full story having a floor area at least half as large as the floor below. Space with clear head room of less than five feet shall not be considered as floor area.

**STREET** -- A public or private way that affords the principal means of access to abutting property.

**STREET GRADE** -- The officially established grade of the street upon which a lot fronts or, if there is no officially established grade, the existing grade of the street.

**STREET LINE** -- The dividing line between a lot and a street right-of-way.

**STRUCTURE, ACCESORY** -- A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

**STRUCTURAL ALTERATION** -- Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

**STRUCTURE** -- Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

**SUBDIVISION** -- The division of any parcel of land into two or more lots, plots, or other division of land, with or without streets, for the purpose of immediate or future sale or building development.

TEMPORARY -- Occurring or in place for fewer than or equal to 90 consecutive days.

THEATER -- A building or part of a building devoted to the presentation of theatrical or other entertainment performances, including the showing of motion pictures on a paid admission basis.

THEATER, OUTDOOR -- An open lot or part thereof with its appurtenant structures and facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid-admission basis.

TILLABLE ACREAGE -- The acreage of land that is prepared by breaking up the earth through tilling and plowing to grow crops.

TINY HOME -- A dwelling that is 400 square feet or less in floor area excluding lofts.

TOWNHOUSE -- A building on its own separate lot containing one dwelling unit with a private entrance that occupies space from the ground to the roof and is attached to one or more other townhouse dwelling units by at least one common wall.

TRANSFER STATION -- The use of land for the collection of waste into bulk containers for the further transport to a land fill site, recycling facility or other waste disposal facility.

TRANSPARENCY -- The use of clear glass windows and doors on a building façade as a part of an architectural design.

UNDEVELOPED LOT -- Land that is generally in its natural state before development. For purposes of this definition, some clearing of natural vegetation may have occurred on an undeveloped lot.

UNIFORM CODE -- The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

USE -- The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

USE, PERMITTED -- A use of a building, structure, lot, or land, or part thereof, that is listed as a permitted use or as a permitted use with a Special Use Permit in Schedule A: Permitted Uses.

USE, PRINCIPAL -- The main or primary purpose for which a building, structure, and/or lot is designed, arranged, or intended, or for which they may be used, occupied, or maintained under this Chapter (see Schedule A). The use of any other building, structure, and/or land on the same lot and incidental or supplementary thereto and permitted under this Chapter shall be considered an accessory use.

USE, PROHIBITED -- A use of a building, structure, lot, or land, or part thereof, that is not listed as a permitted use or as a use requiring a Special Use Permit in Schedule A: Permitted Uses.

VARIANCE, AREA -- The authorization by the Zoning Board of Appeals (ZBA) for the use of land in a manner not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE -- The authorization by the ZBA for the use of land for a purpose otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of use shall require a Use Variance if such increase is not allowed by right or by Special Use Permit.

VETERINARY CLINIC / ANIMAL HOSPITAL- Any structure where animals or pets are given medical or surgical treatment, including short-term boarding of animals when boarding is for the purpose of monitoring recovery. Animal day care may be provided as an ancillary service however, this shall not include boarding, kenneling or crematory facilities. For purposes of this Chapter, this definition shall also apply to the term "animal hospital."

VOCATIONAL SCHOOL -- A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the New York State requirements as a vocational facility. For purposes of this Chapter this definition shall also include "trade school."

WAREHOUSE/WHOLESALE DISTRIBUTION FACILITY – A facility for the storage and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

WATER-DEPENDENT USES -- Activities that require a location in, on, over, or adjacent to the water because the activities require direct access to water and the use of water is an integral part of the activity. Examples of water-dependent uses include public and private marinas, yacht clubs, boat yards, commercial and recreational fishing facilities, waterborne commerce, and ferries.

WATER-ENHANCED OR WATER-RELATED USES -- Uses that have no critical dependence on obtaining a waterfront location, but the profitability of such uses and/or the enjoyment level of the users are increased significantly when they are adjacent to, or have visual access to, the waterfront.

WATERBODY -- Any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high-water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody. A water body is intermittently, seasonally, or permanently inundated with water and contains a discernible shoreline and includes ponds, lakes, and reservoirs.

WATERCOURSE -- Any natural or artificial, intermittent, seasonal, or permanent, and public or private water body or water segment. A watercourse includes rivulets, brooks, creeks, streams, rivers, and other waterways flowing in a definite channel with bed and banks and usually in a particular direction.

WETLAND -- Areas of vernal pools swamps, marshes, wet meadows, bogs, and similar areas saturated by surface or ground water sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soil.

WETLAND/WATERCOURSE BUFFER -- A specified area surrounding a wetland or watercourse that is intended to provide some degree of protection to the wetland or watercourse from human activity and other encroachment associated with development. The buffer shall be subject to the regulations for wetlands and watercourses as defined in this Chapter.

WILDLIFE REFUGE/NATURE PRESERVE -- An area maintained in a natural state for the preservation of both animal and plant life.

WIND ENERGY CONVERSION SYSTEM -- An electricity-generating facility consisting of one or more wind turbines under common ownership or operating control that includes substations, MET towers,

cables/wires and other building accessories to such facility, whose main purpose is to supply electricity to off-site customer(s).

**WIND ENERGY CONVERSION SYSTEM, SMALL** -- A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, or similar technology, that has a rated capacity of not more than 100 kW and is intended to primarily reduce on-site consumption of utility power.

**WIRELESS TELECOMMUNICATION SERVICES FACILITY** -- A structure, facility or location designed or intended to be used as, or used to support, antennas. Includes, without limit, free-standing towers, guyed towers, monopoles, small-cell telecommunication facilities on utility poles in the public right-of-way or on property of the Town or of another municipal corporation; also similar structures that employ camouflage technology including, but not limited to, structures such as a multi-story building, steeple, silo, water tower, sign, or other similar structure intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, personal telecommunications services, commercial satellite services, or microwave telecommunications, but excluding those used exclusively for dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio, and other similar telecommunications.

**WIRELESS COMMUNICATION FACILITIES, SMALL CELL** -- Low-powered wireless base stations that function like cells in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. A small-cell facility meets both the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed element, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than seventeen (17) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

"Small cell wireless facilities" and "microcell wireless facilities" shall be used interchangeably.

**WIRELESS TELECOMMUNICATION TOWER** -- A free-standing structure erected on the ground to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles, or guyed towers.

**YARD** -- An open space on the same lot with a building, unoccupied or obstructed by a portion of a structure from the ground upward, except as otherwise provided in this Chapter.

**YARD, FRONT** -- A space extending the full width of the lot between the principal building and the front lot line and measure perpendicular to the building at the closes point to the front lot line.

**YARD, REAR** -- A space extending across the rear of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building. On both corner and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

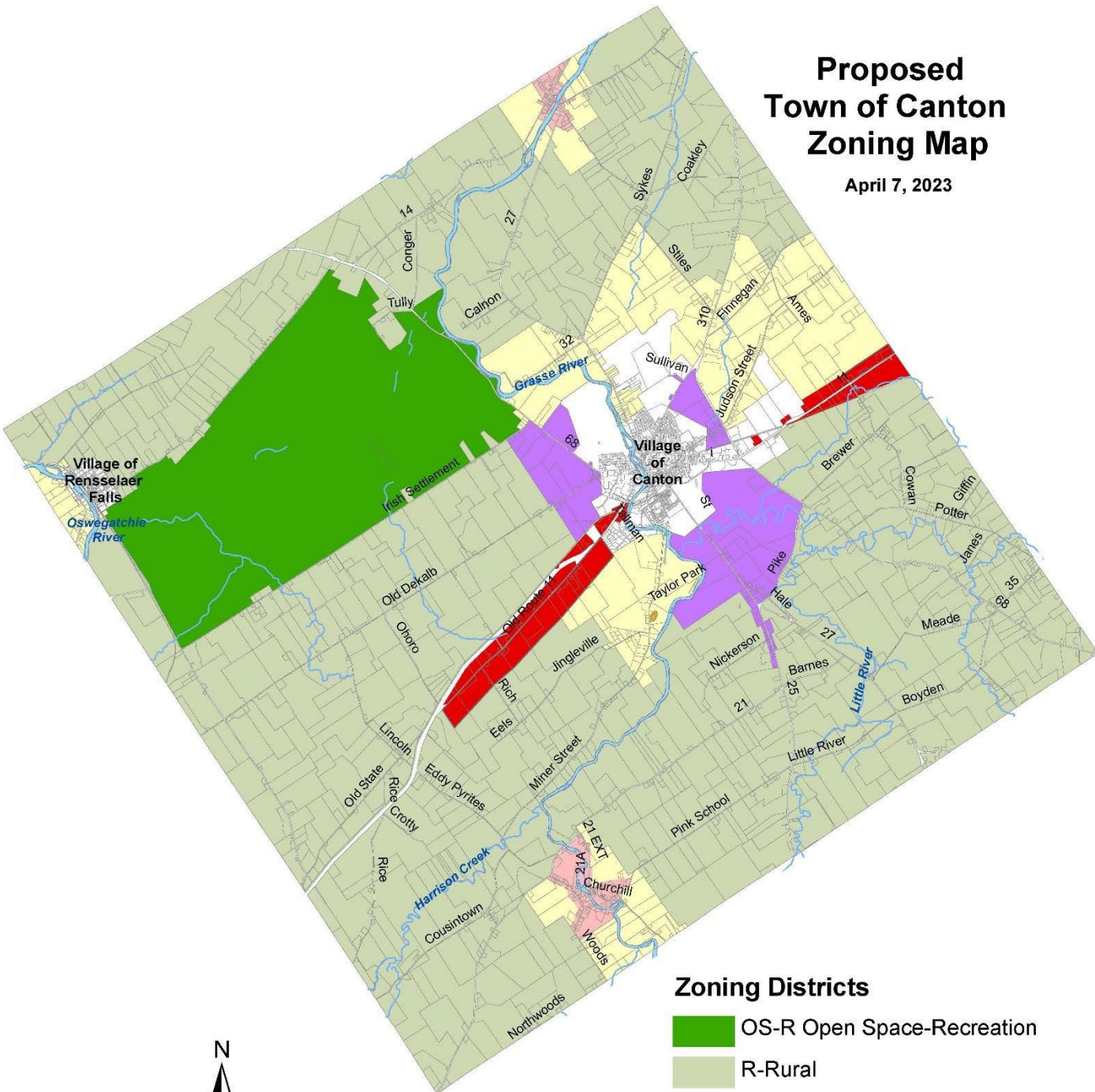
**YARD, SIDE** -- A space from the front yard to the rear yard between the principal building and the nearest side lot line and measure perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT -- The specially delineated areas or districts within the Town, as delineated on the Zoning Map of this Chapter, within which uniform regulations and requirements govern the use, placement, spacing, and size of land and building.



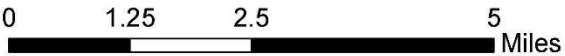
# Proposed Town of Canton Zoning Map

April 7, 2023



### Zoning Districts

- OS-R Open Space-Recreation
- R-Rural
- RA-Residential-Agriculture
- H-Hamlet
- MU-Mixed Use
- C-Commercial\*
- Existing Planned Unit Development
- Rivers and Streams\*\*



February 2023

\* See Chapter 70, Section 70-25.A for boundary description  
 \*\*Watercourse Protection Overlay standards may apply per Chapter 70, Article V.

**Article III. Effective Date.**

This Local Law shall take effect immediately upon its filing with the Secretary of State.