

# Zoning Law

Town of Bennington

Amended Edition

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# Article I – Scope and Application

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## **Section 1 Title**

This Local Law shall be known as the “Zoning Law of the Town of Bennington, New York”. Upon its adoption, the Zoning Ordinance of May 21, 1964 and subsequent amendments is repealed.

## **Section 2 Enacting Clause**

Pursuant to authority conferred by the Town Law of the State of New York, and for each and every purpose specified therein, the Town Board of the Town of Bennington, County of Wyoming and State of New York has ordained and does hereby enact the following Local Law. This Law shall take effect immediately as provided by law.

## **Section 3 Intent and Interpretation**

### **3.1 Intent**

The intent of this Local Law is to promote and protect the environment of the Town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land, by regulating and restricting the bulk, height, design, lot coverage and location of structures, by regulating and limiting population density; and, for the aforesaid purposes, to divide the land within the limits of the Town, into districts in accordance with the General Development Plan; and to provide procedures for the administration and amendment of said Local Law.

The local Law is intended to achieve, among others, the following objectives:

- 3.1.1 To protect and preserve the rural character of the Town of Bennington.
- 3.1.2 To insure orderly and efficient development.
- 3.1.3 To prevent excessive concentrations of population and, also to prevent sparse and uncoordinated development.
- 3.1.4 To preserve and protect significant natural features and vegetation; thereby preventing ecological damage and visual blight which occur when those features are substantially altered to serve various development purposes.
- 3.1.5 To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

### **3.2 Interpretation**

#### **3.2.1 Conflicts with other regulations**

In their interpretation and application, the provisions of this Local Law shall be considered to be minimum requirements to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare.

Whenever any provision of this Local Law is at variance or conflict with any other provisions hereof or any other statute, ordinance or regulation covering any of the same subject matter, the more restrictive provision or the one imposing the higher standard shall govern.

**3.2.2 Severability**

If a court of competent jurisdiction finds any provision of this Local Law invalid in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid and all other provisions of the Local Law shall continue to be separately and fully effective.

**Section 4 Establishment of Districts**

**4.1 Districts**

In order to carry out the purpose, intent and objectives of this Local Law, the Town is hereby divided into the following districts, which shall be designated on the Zoning Map by symbols and boundaries, said districts to be known as:

- A-R: Agricultural-Residential
- R-1: Residential
- R-M: Residential-Multiple
- B: Business
- M: Manufacturing
- S: Seasonal

**4.2 Zoning Map**

The aforesaid districts are bounded as shown on the Zoning Map No. 2 of 1985 which is hereby made a part of this Local Law.

**4.3 Interpretation of Zoning District Boundaries**

Zoning district boundaries are intended to follow property lines, center lines of streets, railroads or streams, or to be parallel or perpendicular thereto unless otherwise indicated by appropriate reference on the Zoning Map, the following rules shall apply:

- 4.3.1 Boundaries indicated approximately following the centerlines of streets or highways shall be construed as following such centerlines.
- 4.3.2 Boundaries indicated as approximately following existing lot lines shall be construed as following such lot lines.
- 4.3.3 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- 4.3.4 Boundaries indicated as approximately following the edge of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the center lines thereof.
- 4.3.5 Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered above, the Board of Appeals shall interpret the district boundaries.

- 4.3.6 Where a district boundary line established upon the adoption of this Local Law divides a lot which was in single ownership at that time, the Board of Appeals may permit the extension of the regulations of either district into the other district if it finds, after receiving a recommendation from the Planning Board that such extension and the resulting use is consistent with the intent of this Local Law and the objectives of the General Development Plan.

## Article II – Regulations

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### **Section 1 Application of Regulations**

The regulations set by this Local Law within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land therein, and except as otherwise provided in this Local Law:

- 1.1 No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except as permitted in the district in conformity with all of the regulations herein specified.
- 1.2 No building or other structure shall hereafter be erected or altered which exceeds the height or bulk; accommodates or houses a greater number of families; occupies a greater part of the lot area; or has narrower or smaller rear yards, front yards, side yards or other open spaces than herein permitted or required.
- 1.3 No part of a yard or other open space or off-street parking space required about or in connection with any structure for the purpose of complying with this Local Law, shall be included as part of a yard, open space or off-street parking space required for any other structure except as provided in Article IV, Section 10.2.
- 1.4 No yard or lot existing at the time of passage of this Local Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet at least the minimum requirements established by this Local Law.
- 1.5 No required yard shall be separated in ownership from that portion of the lot on which a structure is located.

NOTE: Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Local Law may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements.

- 1.6 Public use exemptions. The regulations of this Local Law shall not be so construed as to limit or interfere with the dedication, development or public use of any land or building for public parks, public playgrounds or public schools required for compulsory education; or with the use of land or buildings owned by the United States Government, the State of New York, the County of Wyoming, or the Town of Bennington, and used for governmental purposes; or with the construction, installation, operation and maintenance for public utility purposes of water or gas pipes, mains or conduits, electric power transmission lines, telephone or telegraph lines, oil pipe lines, sewers; or with any highway or railroad right of way existing or

hereafter authorized by the State of New York, County of Wyoming or Town of Bennington.

- 1.7 Exempt for accessory uses and structures which are customarily a part of a permitted use, any use not specifically permitted shall be a prohibited use.
- 1.8 The surface slope of all surfaces of the front, side and rear yards of any building shall slope down and away from the foundation walls on a slope of not less than 1 (one) percent for a distance equal to at least one-half the width or depth of the required yards. When a building is located within 200 feet of a public highway or road, the top of the foundation wall in the front of the building shall not be less than two (2) feet above the elevation of the center line of the road fronting the premises. When unnecessary hardship or practical difficulty due to topographic conditions is proven, the Board of Appeals, without public hearing, shall vary the requirements set out above to permit reasonable use of the premises consistent with the intent and purposes of this Local Law, provided that all surfaces of the front, side and rear yards of any building shall slope down and away from the foundation walls for a distance equal to at least one-half the width or depth of the required yards.

In any district it shall be unlawful to occupy for sleeping purposes or for public assembly, any part of a one-story structure the floor of which is below the required front yard elevation, except that this provision shall not apply to the emergency use of an air raid shelter, tornado shelter or similar protective shelter.

No structure, to be used in whole or in part as a dwelling, shall be erected or placed in an area subject to periodic flooding.

## **Section 2 Districts**

### **2.1 Agricultural-Residential**

#### **2.1.1 Permitted Principal Uses**

- A. Agricultural, floricultural and horticultural pursuits, including, but not limited to, general farms, greenhouses, plant nurseries, truck gardens, dairies and the raising of bees, poultry and livestock, together with all the customary buildings and other structures necessary for the production and storage of the products of such pursuits.
- B. Forest farming.
- C. Kennels or riding stables; provided that pens or runways for animals shall be at least one hundred feet from any adjoining lot line.
- D. Private wildlife reservations or conservation projects including the usual buildings therefor.
- E. Veterinarian facilities including small animal hospitals and holding kennels for the care and keeping of small animals, provided, however that the structures, buildings, pens and runways shall be at least 100 feet from any property boundary line.

- F. Single family dwellings; including permanent mobile homes outside of a mobile home park which meet the current regulations of the State, Federal and local governments or two-family dwellings.
- G. Church or similar place of worship, parish house, convent, rectory or parsonage.
- H. Private, non-profit, elementary or secondary school accredited by the New York State Department of Education.
- I. Fire station, with club facilities.
- J. Private golf course catering exclusively to members and their guests, provided that any building thereon shall be at least one hundred (100) feet from any lot line and no commercial activity shall be conducted except for an accessory swimming pool, "pro" shop, or an accessory dining room with or without bar facilities.
- K. Cemeteries.
- L. Farm water supply, conservation and fire protection ponds.
- M. By special permit from the Town Board:
  1. Gun clubs or other private recreation activity involving the organized use of fire arms – on a site of not less than 100 acres.
  2. Sand or gravel pit or rock quarry. The Board may impose such conditions as it deems desirable to protect nearby property owners from noise, dust, growth of weeds, unsafe conditions and unsightly appearance and to assure final grading and planting of a nature similar to the surrounding land insofar as is practical. A performance bond or similar form of indemnity acceptable to the Town shall be required in order to assure performance of any conditions. An operating fee as determined by the Town Board shall be charged for gravel transported for use outside the limits of the Town of Bennington.
  3. Stripping of topsoil for use on premises other than those from which taken. The Board may impose conditions and shall require indemnity as in paragraph 2, above.
  4. Sanitary landfill for the disposal of solid wastes if operated in a manner acceptable to the New York State Department of Health and Department of Environmental Conservation
  5. Motor Vehicle Repair Shop. Any area of land including structures thereon, that is used or designed to be used for the repair and or servicing of motor vehicles. A permit under this section shall contain specific limitations regarding factors relevant to compatibility of such use to the general neighborhood including, but not limited to, hours of operations, number of employees, the type of vehicles worked on, the number of vehicles permitted on the premises at any given time, disposal of waste products, including petroleum products and disposal of components of motor vehicles.
  6. Light, Commercial Use. Any area of land used or designed to be used for light commercial activity which includes business offices, storage areas, parking

areas, garage areas for commercial activities primarily undertaken at locations other than at the site permitted under this section. Light commercial use as contemplated herein, for purposes of illustration would include trade contractors engaged in the construction or remodeling of residential or farm buildings, contractors engaged in the performing of bulldozing or digging services, the handling of aggregate materials, non-manufacturing light commercial activity not requiring a significant or substantial alteration in the improvements presently located at a site, the storage of equipment, motor vehicles, or materials which are used in the conduct of business at locations other than at the permitted area.

7. In considering the issuance of permits under this section, the Town Board may attach specific limitations and conditions upon the permit. Such conditions may be imposed consistent with the overall objectives of the Town of Bennington Zoning Law. Some but not all factors to be considered will be:
  - a. The hours of operation
  - b. Number of employees
  - c. Number of motor vehicles on the premises at any given time
  - d. Any measurable noise or odor consideration
  - e. Provisions for disposal of waste products or refuse
  - f. The existence of any other similar use within general proximity of the lands subject to the permit application
  - g. Traffic patterns

This listing of factors is not intended to be exhaustive but only illustrative of the considerations which the Town Board may consider in issuing a permit under this section

8. The Town Board shall conduct a public hearing on each permit application in accordance with the procedure set forth in Article V, Section 6.4.6. The application for permits under this section shall be filed with the Town Zoning Enforcement Officer and submitted on forms supplied by the Town.
9. Unless waived by the Town Board, any permit issued under Section 2.1 M of the Town of Bennington Zoning Law shall be for one (1) year and the renewal of any such permit shall be significantly subject to the holder's compliance with the terms of the original permit.
10. Any permit issued under this section shall contain a provision that the holder of the permit in accepting the permit consents to reasonable inspections by the Town of Bennington Zoning Enforcement Officer to monitor compliance with the terms of the permit.
11. Notwithstanding, any language to the contrary contained in the Town of Bennington Zoning Law there shall be an application fee for any permit requested pursuant to Section 2.1M in the amount of \$25.00 and an additional issuance fee of \$25.00 should a permit be granted.

- N. By special permit of the Board of Appeals:
1. Mobile home for farm labor. One mobile home may be located on a farm (herein considered as ten acres or more upon which at least 50% of occupant's income is derived) for occupancy by a hired person or persons and family other than the farm owner. Said mobile home shall be equipped with a skirt of rigid material around the base covering all of the undercarriage and running gear. The trailer must have a permit (\$5.00 fee) for a time period not to exceed two (2) years. After the second year, the trailer must either be removed or can become permanent if it meets the requirements for a permanent mobile home outside of a trailer park as defined in Article VI, Section 2.33 A. A copy of the Zoning Laws pertaining to mobile homes will be a part of any special permit issued for the use of a mobile home.
  2. Temporary mobile home while building. A person or persons building a permanent residence for their own occupancy may live temporarily in a mobile home on the same lot. The Board shall require evidence of intent to complete the building such as a water and sewer hook-up and a footer and foundation before the mobile home may be occupied. Continued evidence of completion shall be required as determined by the Board. The trailer must have a permit (\$5.00 fee) for a time not to exceed two (2) years. The trailer must be removed after the second year. A copy of the Zoning Laws pertaining to mobile homes will be a part of any special permit issued for the use of a mobile home.
  3. Mobile home improvement or replacement. An existing mobile home which is a non-conforming use may be replaced by a new mobile home with a minimum square footage of 950 square feet or improved by the addition of a maximum of 20% of the square footage of the original mobile home. An existing mobile home which is replaced pursuant to the terms of this subsection shall be removed from the premises within 30 days after granting of a special permit by the Board of Appeals.
  4. Drive-in theater providing:
    - a. The site shall be located on either a state or county highway.
    - b. The site shall be designed to provide for safe and efficient traffic circulation. Entrances or exits on State roads shall be approved by the Regional Design Engineer of the State Department of Transportation. Entrances or exits on County roads shall be approved by the Deputy Commissioner of Highways of the Wyoming County Department of Public Works.
    - c. All driveways, parking areas and structures shall be located at least one hundred (100) feet from any R District boundary.
    - d. All driveways, parking areas and structures shall be landscaped in a manner which will make them compatible with surrounding land uses, existing or future.

- e. The screen shall be so oriented as not to create a distracting influence on vehicle drivers on the surrounding highways or a nuisance for residents in R Districts.
- 5. Hospital. A hospital for treatment of physical infirmities on a site of not less than ten (10) acres.
- 6. Seasonal tent or trailer camp. A seasonal tent or trailer camp shall have a minimum of one hundred (100) acres.
- 7. Windmills exceeding 30 feet in height. Windmills must be surrounded by a minimum number of square feet so that in the event of collapse or destruction, damage to surrounding property owners is prevented.

**2.1.2 Permitted accessory uses:**

- A. Quarters for servants employed on premises.
- B. Buildings for private horticultural purposes.
- C. Private garage, off-street parking.
- D. Private family swimming pool. A ground fault interrupter breaker shall be installed in accord with New York State Board of Fire Underwriters regulations.
- E. Storage of recreational or utility trailers or boats owned by occupant of the premises for their personal use.
- F. Keeping of tourists or not over two (2) roomers or boarders.
- G. Keeping of State Wards in accord with State regulations.
- H. An office or studio of a resident: medical or osteopathic physician, dentist, physiotherapist, chiroprapist, podiatrist, chiropractor, lawyer, engineer, architect, accountant, insurance agent, real estate agent, artist, musician, teacher or similar use provided that:
  - 1. Such use shall be located within a dwelling and shall be clearly incidental to the primary residential use.
  - 2. No more than one (1) additional person shall be employed on said premises as an assistant to the occupant.
  - 3. Such use shall not include the confinement of any person under care or treatment.
- I. Home occupation as defined in Article VI and provided:

A home occupation shall not occupy or use an area which is more than 25% of the area of the dwelling unit. A special permit for the establishment of a home occupation must be secured from the Town Board. Once a home occupation has been established, the individual conducting the home occupation must secure a special permit annually from the Town Board on or before the first Town Board meeting in March of each year. Failure to secure the required permit will preclude the establishment or continuation of the home occupation. A fee will be charged each applicant for a special permit for a home occupation in an amount to be set by the Town Board annually.

There shall be no exterior display other than an announcement or professional sign not to exceed four square feet in area, attached to the dwelling and not illuminated.

There shall be no exterior storage of materials or other exterior indications of such home occupation or any other variation from the residential character of the premises.

No excessive noise, vibration, smoke, odors, fumes, gases, dust, dirt, heat or glare shall be produced.

No equipment device or object shall be used which will cause disturbances in the electrical service of the neighborhood so as to interfere with the reception of radio or of television broadcast signals.

- J. Other customary uses if not commonly conducted as a business.
- K. Camping shall be permitted on private property by the owner or owners thereof but limited to a period not exceeding 120 days between April 1<sup>st</sup> and November 1<sup>st</sup> of each year.

**2.1.3 Lots – Minimum Requirements for Residential Use**

- A. Area – 80,000 square feet.
- B. Width – two hundred (200) feet at setback line
- C. Flag Lot – fifty (50) feet minimum road frontage

**2.1.4 Yards – Minimum Requirements (see Article IV, Section 5 for exceptions)**

- A. Front – fifty (50) feet.
- B. Side – thirty (30) feet each.
- C. Rear – equal to twenty-five (25) percent of lot depth, but no less than thirty (30) feet.

**2.1.5 Buildings (See Article IV, Section 4 for height exceptions)**

- A. Height of Dwellings – thirty (30) feet maximum
- B. Height of accessory buildings – thirty (30) feet height maximum if property is 2 acres or more. Less than two acres, eighteen (18) feet height maximum.
- C. There shall be no maximum height for principal or accessory farm buildings, except dwellings, which shall be limited to thirty (30) feet.
- D. Livable floor area for dwellings – 950 square feet minimum for single family dwelling and 800 square feet minimum for each unit in a two family dwelling.

**2.1.6 Signs (see Article IV, Section 6)**

**2.1.7 Parking (see Article IV, Section 8)**

**2.1.8 Ponds – minimum requirements for front and side setback lines**

- A. Front – fifty (50) feet from the base of the outside of the dike to the right of way of the road or property line.

- B. Side – fifty (50) feet from any property line.

## **2.2 Residential District**

### **2.2.1 Permitted Principal Uses**

- A. As permitted and regulated in the A-R District except kennels, riding stables, veterinarian facilities.
- B. By special permit from the Board of Appeals:
  - 1. Any use requiring a special permit in Section 2.1.1, N.
  - 2. Mobile home parks according to the following standards:
    - a. Each mobile home shall be used only for single-family residential purposes.
    - b. Each mobile home shall be located on a site or plot having a minimum of fifty (50) feet frontage on a private internal drive. Each site or plot shall contain a minimum of five thousand (5,000) square feet of area.
    - c. Each mobile home park shall contain space for a minimum of twenty-five (25) units.
    - d. All mobile home parks shall provide adequate public sewer and water facilities as approved by the State and County health officials.
    - e. All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces of at least twenty (20) feet in width shall be maintained free of cracks, holes and other hazards. The right-of-way shall be a minimum of thirty (30) feet.
    - f. Each mobile home or plot shall be provided with two (2) parking spaces at least ten (10) feet by twenty (20) feet.
    - g. Each mobile home shall be equipped and maintained with a skirt of rigid material around the base, covering all of the undercarriage and running gear.
    - h. Each site or plot shall be provided with an adequate pad, as specified by the Zoning Enforcement Officer or his/her authorized representative.
    - i. No mobile home or accessory service building shall be located within seventy-five (75) feet of any public street.
    - j. No mobile home or accessory service building shall be located within fifteen (15) feet of any internal driveway.
    - k. No mobile home shall be located within five (5) feet of any side site or plot lines.
    - l. No mobile home shall be located within fifteen (15) feet of any rear site or plot lines.

- m. Each mobile home or attachment thereto shall be maintained with a minimum distance of twenty (20) feet between any other mobile home or attachment thereto.
- n. No mobile home or attachment thereto shall be permitted within forty (40) feet of any service building.
- o. No mobile home shall be located within forty (40) feet of any other zoning district.
- p. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
- q. All parks shall be provided with safe, convenient, all-season, dust free, pedestrian access of adequate width for intended use, durable and convenient to maintain between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
- r. Grades of all streets shall be sufficient to ensure adequate surface drainage, but shall be not more than eight percent (8%). Short runs with a maximum grade of ten percent (10%) may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.
- s. Within one hundred (100) feet of an intersection, streets shall be at approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two (2) streets at one (1) point shall be avoided.
- t. Dead-end streets shall be limited in length to one thousand (1,000) feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least sixty (60) feet.
- u. All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide safe movement of pedestrians and vehicles at night.
  - 1. All parts of the parks' street system shall be lighted.
  - 2. Potentially hazardous locations, such as major streets intersections and steps or stepped ramps, shall be lighted.
- v. All mobile home parks shall be provided with screening such as attractive and well-maintained fences or natural growth along the property boundary line separating the park and adjacent uses. At least ten (10) percent of the site shall be properly maintained as open space.
- w. The foregoing are the only conditions except Article II, Section 2.1.1 N. 1, 2, and 3 under which mobile homes are permitted in the Town of Bennington. No existing mobile home may be replaced with another or relocated within the Town except within a mobile home park.

- 2.2.2 Permitted Accessory Uses:**
  - A. As permitted and regulated in the A-R District.
- 2.2.3 Lots – minimum requirements:**
  - A. Area – twenty thousand (20,000) square feet.
  - B. Width – one hundred (100) feet at setback line.
- 2.2.4 Yards – minimum requirements (see Article IV, Section 5 for exceptions):**
  - A. Front – fifty (50) feet
  - B. Side – thirty (30) feet each.
  - C. Rear – equal to 25% of lot depth but no less than thirty (30) feet.
- 2.2.5 Buildings – (See Article IV, Section 4 for height exceptions):**
  - A. Height of principal building – thirty (30) feet maximum.
  - B. Height of accessory buildings eighteen (18) feet height maximum. Thirty (30) feet height maximum if property is two (2) acres or more.
  - C. Livable floor area for dwellings – 950 square feet minimum.
- 2.2.6 Signs (See Article IV, Section 6).**
- 2.2.7 Parking (See Article IV, Section 8).**
- 2.2.8 Ponds (See Article II, Section 2.1.8 for front and side setback lines).**

**Section 2.3 Residential Multiple**

- 2.3.1 Permitted Principal Uses:**
  - A. As permitted and regulated in R-1 Districts except for permanent mobile homes outside of a mobile home park.
  - B. Two-family dwellings.
  - C. Multi-family dwellings.
  - D. By special permit of the Board of Appeals:
    - 1. Any use of requiring a special permit in Section 2.1.1, N.
- 2.3.2 Permitted Accessory Uses:**
  - A. As permitted and regulated in R-1 Districts.
- 2.3.3 Lots – Minimum Requirements for Residential Use**
  - A. Area
    - 1. Two-Family: thirty thousand (30,000) square feet.
    - 2. Multi-Family: forty thousand (40,000) square feet for the first unit plus five thousand (5,000) square feet for each additional unit. Public sewers are required.

- B. Width
  - 1. Two-family: one hundred twenty-five (125) feet
  - 2. Multi-Family: one hundred fifty (150) feet for the first unit plus twenty (20) feet for each additional unit.

**2.3.4 Yards – Minimum Requirement (see Article IV, Section 5 for exceptions).**

- A. Two Family Dwellings
  - 1. Front: fifty (50) feet.
  - 2. Side: thirty-five (35) feet each.
  - 3. Rear: equal to twenty-five (25) percent of lot depth, but no less than thirty-five (35) feet.
- B. Multi-family Dwelling
  - 1. Front: fifty (50) feet.
  - 2. Side: thirty-five (35) feet each.
  - 3. Rear: equal to twenty-five (25) percent of lot depth, but no less than thirty-five (35) feet.

**2.3.5 Buildings (See Article IV, Section 4 for height exceptions).**

- A. Two-family dwelling
  - 1. Height of dwellings – thirty (30) feet maximum
  - 2. Height of accessory buildings – eighteen (18) feet maximum. Thirty (30) feet maximum if property is two (2) acres or more.
  - 3. Livable floor area – 800 square feet for each dwelling unit.
- B. Multi-family dwelling
  - 1. Height of dwelling – thirty-five (35) feet maximum
  - 2. Height of accessory buildings – fourteen (14) feet maximum.
  - 3. Livable floor area:
    - a. Zero or One Bedroom Unit – 650 square feet
    - b. Two Bedroom Unit – 760 square feet
    - c. Three Bedroom Unit – 850 square feet

**2.3.6 Signs (see Article IV, Section 6)**

**2.3.7 Parking (see article IV, Section 8)**

**2.3.8 General Regulations:**

- A. Site Plan Review is required for multi-family dwellings (see Article V, Section 3).
- B. Where a lot is used for multi-family dwellings, a minimum of two-hundred (200) square feet of usable open space shall be provided for outdoor recreation. This may be reduced by up to one-half if recreation facilities are provided inside the building.
- C. Landscaping – a landscaped buffer of at least ten (10) feet shall be provided and maintained along the side and rear boundaries of any multi-family development.

Other landscaping shall be provided and maintained in accordance with site plan requirements.

**2.3.9 Ponds (see Article II, Section 2.1.8 for front and side setback lines).**

**Section 2.4 Business District**

**2.4.1 Permitted Principal Uses**

- A. As permitted and regulated in R-M Districts including permanent mobile homes outside of a mobile home park.
- B. Retail stores.
- C. Eating or drinking establishments.
- D. Banks.
- E. Business or professional offices.
- F. Laundromat, dry cleaning or laundry pickup station.
- G. Personal services establishments such as barber shop or beauty parlor.
- H. Medical building consisting of offices or clinics for medical doctors, dentists, chiropractors, osteopaths, chiropodists.
- I. Meeting rooms for private club, lodge or fraternal organization.
- J. Funeral parlor.
- K. Telephone exchange.
- L. Drive-in banks; provided that at least five (5) reservoir spaces are provided on the lot for each drive-in teller's window. Such reservoir spaces shall be exclusive of required parking spaces.
- M. Nonprofit institutions for charitable, religious, cultural or community social purposes.
- N. New or used motor vehicle sales or service.
- O. By special permit of the Board of Appeals:
  - 1. Any use requiring a special permit in Section 2.1.1., N.
  - 2. Gasoline service station provided:
    - a. No part of any building used as a gasoline service station or public garage and no filling pump, lift or other service appliance shall be erected within twenty-five (25) feet of any R District boundary.
    - b. No gasoline or fuel pump, no oiling or greasing mechanism and no other service appliance shall be installed in connection with any gasoline station or public garage within twenty (20) feet of any street line.
    - c. Two (2) reservoir spaces for each gasoline pump shall be provided on the lot for waiting vehicles. Such reservoir spaces shall not include space at the pump or required parking space.

- d. Storage of gasoline shall be approved by the National Board of Fire Underwriters.
  - e. There shall be no use of the lot except for landscaping or screening within twenty (20) feet of any R District.
  - f. All portions of the lot not enclosed in a building and used for reservoir space or for storage, parking or servicing of motor vehicles shall be subject to the provisions of Article IV, Section 7 pertaining to automotive use areas.
- P. Other uses which, in the opinion of the Board of Appeals, are of the same general character as those listed as permitted uses and which will not be detrimental to the district.

**2.4.2 Permitted accessory uses:**

- A. As permitted and regulated in R-M Districts
- B. Shops for the manufacture or processing of articles incidental to the conduct of a retail business lawfully conducted on the premises provided that:
  - 1. All such articles manufactured or processed are sold at retail on the premises.
  - 2. Not more than four (4) persons are engaged in such manufacturing or processing at any one time in any one establishment.
  - 3. Such activity shall not produce offensive odors, noise, vibration, heat, glare or dust.
  - 4. Other customary accessory uses.

**2.4.3 Lots – minimum requirements:**

- A. Area – no minimum.
- B. Width – one hundred (100) feet.

**2.4.4 Yards – minimum requirements (see Article IV, Section 5 for exceptions):**

- A. Front – thirty-five (35) feet at setback line.
- B. Side – none required except:
  - 1. Where a side yard is provided it shall be not less than five (5) feet.
  - 2. Where a side yard abuts a lot in an R District, its width shall be not less than thirty (30) feet or a distance equal to the height of the principal building, whichever is greater.
  - 3. Where a side yard is used for either vehicular ingress or egress, it shall be at least twelve (12) feet wide.
  - 4. Where a side yard is used for vehicular ingress and egress, it shall be at least twenty-five (25) feet wide.
- C. Rear – thirty-five (35) feet.

**2.4.5 Buildings (see Article IV, Section 4, for height exceptions):**

- A. Height of Principal Buildings – thirty (30) feet maximum.
- B. Height of Accessory Buildings – eighteen (18) feet maximum. Thirty (30) feet maximum if property is two (2) acres or more.

- 2.4.6 **Signs (see Article IV, Section 6).**
- 2.4.7 **Parking (see Article IV, Section 8).**
- 2.4.8 **Ponds (see Article II, Section 2.1.8 for front and side setback lines).**

**Section 2.5 Manufacturing District**

**2.5.1 Permitted Principal Uses:**

- A. As permitted and regulated in the A-R District.
- B. Manufacturing not prohibited by law. Uses of land buildings, structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions are prohibited, provided, however, that any uses may be permitted if approved by the Board of Appeals and subject to the securing of a permit therefor and to such conditions, restrictions, and safeguards as may be deemed necessary by said Board for the purpose of protecting the health, safety and the general welfare of the community.

**2.5.2 Lots – minimum requirements**

- A. Area – no minimum.
- B. Width – one-hundred (100) feet.

**2.5.3 Yards – minimum requirements (see Article IV, Section 5 for exceptions):**

- A. Front – fifty (50) feet.
- B. Side – twenty (20) feet each except fifty (50) feet where side yard abuts a residence district.
- C. Rear – fifty (50) feet excepts seventy-five (75) where rear yard abuts a residence district.

**2.5.4 Buildings (see Article IV, Section 4 for height exceptions):**

- A. Principal buildings – thirty (30) feet maximum.
- B. Accessory buildings – thirty (30) feet maximum.

**2.5.5 Signs (see Article IV, Section 6).**

**2.5.6 Parking (see Article IV, Section 8).**

**Section 2.6 Seasonal Use District**

**2.6.1 Permitted principal uses:**

- A. Single family residences for occupancy from May 1<sup>st</sup> to November 30<sup>th</sup>, both dates being inclusive and provided additional temporary occupancy shall be permitted not to exceed 14 days in each of the calendar months of January through April plus

December. The easement or right-of-way providing access to the premises shall not be less than fifty (50) feet in width.

- B. Ponds.

**2.6.2 Permitted accessory uses:**

- A. Private garage, off-street parking.
- B. Buildings for private horticultural purposes.
- C. Private swimming pool. A ground fault interrupter breaker shall be installed in accord with New York State Board of Fire Underwriters regulations.
- D. Storage of recreational or utility trailers or boats owned by occupant of the premises for their personal use.
- E. Other customary uses.

**2.6.3 Lots – minimum requirements for residential use**

- A. Area – 20,000 square feet exclusive of any pond area.
- B. Width – one hundred (100) feet at setback line.

**2.6.4 Yards – minimum requirements (see Article IV, Section 5 for exceptions).**

- A. Front – twenty five (25) feet.
- B. Side – twenty five (25) feet each.
- C. Rear – equal to twenty five (25) percent of lot depth but no less than thirty (30) feet.

**2.6.5 Buildings (see Article IV, Section 4 for height exceptions).**

- A. Height of dwellings – two story maximum.
- B. Height of accessory buildings – eighteen (18) feet maximum. Thirty (30) feet height maximum if property is two (2) acres or more.
- C. Each seasonal dwelling shall have a ground floor area, not including the area for breezeways, storage of motor vehicles or other non-residential uses, of not less than 550 square feet for any one story dwelling and not less than 500 square feet for any dwelling of one and one-half stories or more.

**2.6.6 Signs (see Article IV, Section 6).**

**2.6.7 Parking (see Article IV, Section 8).**

**2.6.8 Description of Seasonal Districts:**

The “S” District shall be all those lands in the east portion of the Town bounded and described as follows: On the north by a line of two-hundred (200) feet south of and parallel to the south boundary of Krieger Road as it runs in an easterly direction from Sierk Road to the east boundary line of the Town; on the east by easy boundary line of the Town and a line two-hundred (200) feet west of and parallel to the west boundary of New York State Highway Route 98; on the south by a line two-hundred (200) feet north of and parallel to the north boundary line

of Eck Road; and west by a line of two-hundred (200) feet east of and parallel to the east boundary of Maxon Road and a line two-hundred (200) feet east of and parallel to the east boundary of Sierk Road to the place of beginning, excluding therefrom all land therein which lies within two-hundred (200) feet of the north east or south boundaries of Cotton Hill Road as now maintained by the Town. See Article VII, Section 2.1 for 1985 amendment to Article II Section 2.6.8.

The "S" districts shall also be all that tract and parcel of land, situated in the Town of Bennington, County of Wyoming, State of New York, being part of Lots 7 and 9, Section 4, Township 10, Range 3, of the Holland Land Company's Survey, and being more particularly described as follows:

Beginning at a point in a line drawn paralleled with the center line of Geise Road and seven hundred eighty-seven and forty-one hundredths (787.41) feet westerly therefrom said point of beginning being two-hundred (200) feet southerly of the center line of Church Road, measured along said parallel line, continuing thence southerly along said parallel line nine hundred twenty and one tenth (920.1) feet to a point in the south line of a deed recorded in Wyoming County Clerk's office in Liber 89, at page 138. Thence westerly along said deed line one thousand one hundred eighty-five and sixty-one hundredths (1185.61) feet to a point, thence northerly along the west line of said deed six hundred fifty-seven and thirty hundredths (657.30) feet to a point four hundred and fifty (450) feet southerly of the center line of Church Road as measured along said deed line, thence easterly and parallel with center line of Church road two-hundred (200) feet to a point, thence northerly and parallel with center line of Geise Road two hundred fifty (250) feet to a point thence easterly and parallel with center line of Church Road nine hundred and eight-five and sixty-one hundredths (985.61) feet more or less to a point or place of beginning.

**2.6.9 Ponds (see Article II, Section 2.1.8 for front and side setback lines).**

# Article III – Planned Unit Development, Cluster, Conservation, Special Uses

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## **Section 1 Planned Unit Development**

### **1.1 Intent**

The intent of this Planned Unit Development (PUD) section is to provide greater flexibility leading to more imaginative design in the development of areas than is normally possible under conventional zoning districts. It is further intended to promote the most appropriate use (uses) of the land; a more efficient and economical arrangement of streets, utilities, buildings and open space; the utilization of topography and other natural features to the best advantage both in creative design and conservation practices; and to integrate all elements into one cohesive and compatible.

### **1.2 General**

The creation of a PUD shall be subject to the approval of the Town Board, based upon the review and recommendations of the Planning Board and upon the results of a public hearing.

Since rigid design criteria would tend to defeat the nature and intent of this Local Law, the design quality of a PUD must therefore be insured by other means. This would include an evaluation by a professional planner experienced in all aspects of site planning.

Thus, where PUD techniques are deemed appropriate through the rezoning of land to a Planned Unit Development District by the Town Board, the use and dimensional specifications found elsewhere in this Local Law are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

### **1.3 Regulations**

- 1.3.1 Location – The PUD District shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of the development will meet the objectives of this article.
- 1.3.2 Minimum Area – A Planned Unit Development shall include no less than twenty (20) acres of contiguous land.
- 1.3.3 Open Space – A minimum of twenty-five (25) percent of the site shall be used as open space, including walkways, plazas, landscaped areas and recreation areas. Parking areas and vehicle access facilities shall not be considered in calculating open space.
- 1.3.4 Common property – Common property in a PUD is a parcel or parcels of land together with improvement thereon, the use of which are shared by the owners and occupants of the individual building sites. The landowner shall provide for and establish an organization for the ownership and maintenance of any common

property. Such organization shall not be dissolved nor shall it dispose of any common property by sale or otherwise.

- 1.3.5 Ownership – The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- 1.3.6 Permitted uses – The following permitted uses shall not adversely affect surrounding development and shall be in accordance with purpose, intent and objective of this Local Law:
  - a. Dwelling units in detached, semi-detached, attached, clustered, or multi-storied structures or combination thereof.
  - b. Commercial Uses, where such uses are scaled primarily to serve the residents of the PUD, such as retail sales, personal services.
  - c. Stores and professional offices.
  - d. Public and private institutional facilities.
  - e. Recreational facilities.
- 1.3.7 Densities – gross densities for single family, two-family and multiple family developments shall not exceed those normally permitted in the particular zoning district where the proposed PUD is to be located.

#### **1.4 Procedures**

- 1.4.1 Pre-application conference – To avoid possible future delays, it is suggested that the applicant confer informally with the Planning Board regarding basic concepts of the proposed PUD, including rough sketches and tabulations, prior to submitting preliminary site plans.
- 1.4.2 Preliminary site plan – A preliminary site plan as required under Article V, Section 3.1 shall be submitted, accompanied by the following documentation:
  - a. Evidence of how the developer’s particular mix of land uses meets existing community demands to include area-wide, as well as local considerations;
  - b. Evidence that the proposal is compatible with the goals of local and area-wide planning;
  - c. General statement as to how common open space is to be owned and maintained;
  - d. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project;
  - e. Evidence of any sort in the applicant’s own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project both physical and financial.
- 1.4.3 Planning board action – The Planning Board shall review the preliminary site plan and related document and, within sixty (60) days of submission, shall submit to the Town Board its recommendation that the plan be approved, disapproved or modified.

- a. If in any such evaluation the Planning Board finds that any submission requirements, regulations, standards or criteria prescribed by this Local Law are inapplicable because of unusual conditions of the PUD, or the nature and quality of the proposed design, it may recommend to the Town Board that an adjustment in such regulations, standards or criteria be made for the development or a proposed site in the development.
- 1.4.4 Town Board Action – upon a favorable report from the Planning Board, the Town Board shall set a date for a public hearing for the purpose of consideration of creation of a PUD. The Town Board shall render a decision sixty (60) days following the public hearing.
- 1.4.5 Zoning – The determination of the Town Board to create a PUD for adjust any regulations or standards shall be based on its review of the preliminary site plan and related documents, the Planning Board’s recommendations, and matters brought forth at the public hearing. Upon the creation of a PUD, the Zoning Map shall be notated.
  - a. Amending the Zoning Map to indicate a PUD does not authorize the issuance of building permits. Such actions can only be taken upon approval of the site plan.
- 1.4.6 Final Site Plan – The final site plan shall substantially conform to the preliminary site plan that has been approved, incorporating any revisions or other features recommended by the Planning Board and/or Town Board. In addition to the information contained in preliminary site plans, the final site plan shall provide the information outlined under Article V, Section 3.2.
  - a. Phasing – If the development is to be implemented in phases, each phase must have adequate provision for access, parking, open space, recreation areas and storm water management and other public improvements to serve the development in accordance with the applicable criteria set forth for PUDs in the event that other phases are not constructed. Where the overall development of an entire PUD site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.
  - b. Planning Board Action – Within sixty (60) days of the receipt of the application for site plan approval, the Planning Board shall act on it and notify the Town Board and applicant of its action. In determining its action, the Planning Board shall seek advice and assistance from such sources as the Town attorney, the Town engineer, the Town Building Inspector, the Town Highway Superintendent and the Town Planning Consultant. The Planning Board’s report shall state whether or not the final site plan is approved, and shall include a detailed statement of the basis for any Planning Board determination of noncompliance with any substantive criterion, standard or regulation of this Section. In such case the Planning Board may recommend further study of the final site plan after it has been revised or redesigned.

- c. Town Board Action – Within thirty (30) days of receiving a recommendation from the Planning Board, the Town Board shall either approve or disapprove the final site plan. The basis for such a decision shall be the conformance of the final site plan to the approved or modified preliminary site plan and the objectives of this Local Law.
  - 1. If the Town Board determines that the final site plan does not comply with the above criteria, standards or regulations, then the record of such determination shall be delivered to the applicant including a separate statement setting forth in detail the exact nature of such noncompliance and all other factors included in the basis for the Town Board’s determination.

1.4.7 Other regulations applicable to PUD Districts:

- a. Subdivision Review – Site plan review under the provisions of this section shall suffice for Planning Board and Town Board review and approval of subdivisions, subject to the following conditions;
  - 1. The applicant shall prepare sets of subdivision plats suitable for filing with the office of the Wyoming County Clerk in addition to the drawings required above.
  - 2. If the PUD is being developed in stages it may be platted and filed in corresponding components.
- b. Regulation after initial construction and occupancy. For purposes of regulating the development and use of property after completion of initial construction and occupancy, all use changes shall be based upon a special permit granted by the Town Board after receiving a recommendation from the Planning Board.
- c. Commencement of Construction – No construction or site improvement work may commence until site plan approval has been granted.
- d. Financial Responsibility – No building permits shall be issued for construction within a PUD District until improvements are installed or performance bond or letter of credit posted in accordance with the same procedures as provided for in Section 277 of the Town Law relating to subdivision.

**Section 2 Cluster**

**2.1 Definition**

The cluster concept is basically a technique which groups houses rather than spacing them regularly along gridiron or curvilinear streets; which reduces lot sizes below those regulated under conventional zoning, combining the remaining areas into common open spaces; and which utilizes such street patterns such as cul-de-sacs, crescents, loops and other similar court-type configurations to provide the advantages inherent in the cluster concept.

**2.2 Intent**

The intent of this Cluster Development Section is to provide for:

- 2.2.1 Greater flexibility in subdivision planning which would lead to more innovative design than is normally possible under conventional zoning regulations.

- 2.2.2 The preservation of natural or unique features of the site.
- 2.2.3 The allocation of more usable open space for recreation, community activities and/or scenic value.
- 2.2.4 A more economical development of the site with respect to installation and maintenance of streets and utilities.
- 2.2.5 Safer accommodations for both pedestrian and vehicular traffic.

**2.3 Approval**

In order to permit the flexibility in the design of residential development as outlined in Section 2.2 above, conventional lot and yard requirements may be modified by the Planning Board as permitted under Section 281 of the Town Law. Cluster development shall be subject to the approval of the Town Planning Board whose judgment shall be based on the proposed project’s conformance to the regulations and intent of this Local Law and in its compatibility with the General Development Plan.

**2.4 Regulations**

- 2.4.1 Permitted Districts: Cluster development shall be permitted in any district permitting residential uses.
- 2.4.2 Minimum Development Area: Cluster development shall be restricted to tracts of no less than ten (10) acres.
- 2.4.3 Density: Maximum density of the cluster development shall not exceed the maximum density normally permitted in that district in which the cluster development lies.
- 2.4.4 Open Space:
  - a. At the Town’s option, open space may be accepted by dedication and operated by the Town as a public recreational facility.
  - b. If open space is not dedicated to the Town, the formation and incorporation of an adequate homeowners association shall be required of the developer prior to final approval.
  - c. All necessary precautions shall be taken to protect the open space from any encroachment by future building or uses not shown on the approved site plan.

**2.4.5 Procedures:**

The proposed plat shall be accompanied by a statement setting forth the nature of such modification, changes, or supplementation of existing zoning provisions as are not shown on said plat. These shall be subject to review and public hearing by the Planning Board in the same manner as set forth in Sections 276 and 277 of the Town Law for the approval of plats.

**2.5 Existing Cluster**

Highland Glens, Inc., is herein declared to be an existing cluster and is so notated on the Zoning Map. The following conditions apply:

- 2.5.1 The maximum number of lots shall be 109 as shown upon a map showing Highland Glens Subdivision and Recreation Area, which map was filed in the Wyoming County Clerk's Office on May 23, 1972, as Map No. 72-5.
- 2.5.2 Open and common land will remain as such unless increased. The responsible organization shall not be dissolved, nor shall it dispose of any common property by sale or otherwise with the following exceptions:
  - A. Existing lots as shown upon the above referenced subdivision map, ownership of which is in the name of Highland Glens, Inc., on the date of the adoption of this Local Law;
  - B. Parcels of land of Various shapes and sizes, but in all cases adjacent to, contiguous to and abutting an existing lot as shown upon the above referenced subdivision map which may be conveyed either to the owner of an existing lot or with an existing lot to the purchaser thereof for the sole purpose of increasing the size of such existing lot, but which may never be conveyed separately from such existing lot.
- 2.5.3 There shall be no attempt to dedicate roads or water or sewer systems to the Town, nor to otherwise obligate the Town for maintenance or upkeep of any kind within the cluster as described.
- 2.5.4 As to all lots as shown upon the above referenced subdivision map which on the date of adoption of this Local Law have either been conveyed by Highland Glens, Inc. or presently under contract to be sold by Highland Glens, Inc., the structure size shall be a minimum of 700 square feet for permanent and nonpermanent use. A building permit is required from the Zoning Enforcement Officer.
- 2.5.5 As to all lots as shown upon the above referenced subdivision map which on the date of the adoption of this Local Law have not been conveyed by Highland Glens, Inc. the minimum structure size shall be 700 square feet for nonpermanent habitation. Should such structure be converted to permanent use, conversion shall meet the square feet standards contained in this Local Law. A building permit is required from the Zoning Enforcement Officer.
- 2.5.6 Residential lots shall have a minimum frontage of 100 feet, minimum lot size of 20,000 square feet, minimum side yards of 15 feet and minimum front yards of 50 feet.

### **Section 3 Conservation District**

#### **3.1 Intent**

A Conservation Section is hereby established within the Town of Bennington to limit development of flood hazard area abutting Cayuga, Eleven Mile and Tonawanda Creeks or certain tributaries thereof for the following purposes:

- 3.1.1 To allow the above mentioned creeks to both carry and store their maximum amount of water without restrictions
- 3.1.2 To prevent further encroachments on their flood plains which would increase flood water levels.

- 3.1.3 To prevent any increased threat to health, safety and property both to the immediate area and to those downstream.
- 3.1.4 To protect the water quality and general ecology of the above mentioned creeks through control of land use.

### **3.2 Boundaries**

The Conservation Sector shall consist of those flood hazard areas as determined by the Department of Housing and Urban Development and as delineated on HUD's FIA Flood Hazard Boundary Maps. Not a Zoning District itself, the Conservation Sector is superimposed over zoning districts lying within the hazard areas and shall not be any less restrictive than the district it covers.

### **3.3 Use Limitations**

- 3.3.1 Agricultural uses (where permitted by the district regulations), not requiring permanent or temporary structures for human habitation, including, but not limited to vegetable farms, orchards and nurseries.
- 3.3.2 Recreational uses (where permitted by the district regulations), including parks, swimming areas, playgrounds, wildlife and nature preserves, hunting, fishing, hiding areas and such transient amusement enterprises as circuses, rides and shows.
- 3.3.3 Structures accessory to the above permitted uses which would not be adversely affected by flooding and whose presence would not significantly affect the efficiency or storage capacity of the flood plain or which would not tend to increase flood heights.
- 3.3.4 No structure for human habitation shall be permitted.
- 3.3.5 No structure (temporary or permanent), fill, deposit, obstruction, excavation, storage of materials or other use shall be permitted in this district which would adversely affect the efficiency or storage capacity of the floodplain, or which would tend to increase flood heights.

### **3.4 Procedures**

- 3.4.1 Any proposed development in the Conservation Sector must have the written approval of both the Planning Board and the Town Board before any Building Permit is issued.
- 3.4.2 The above use limitations may be modified or even waived if, in the judgment of both Planning Board and Town Board, the proposed development would not violate the intent of the Conservation Sector as set forth above under 3.1. Engineering studies may be required to substantiate this, the cost of which shall be borne by the applicant.

## **Section 4 Permitted Special Uses**

### **4.1 General Provisions**

The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective district, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Local Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

### **4.2 Required Site Plan**

A site plan as specified in Article V, Section 3 shall be submitted with each application for a special use permit.

### **4.3 Standards Applicable to all Special Uses**

- a. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- b. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights, than would be the operations of any permitted use.

## Article IV – Supplementary Regulation

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### **Section 1 Lot Provisions and Open Space Requirements**

- 1.1 No dwelling shall be erected on any lot which does not have immediate frontage on a street as defined in this Local Law.

### **Section 2 Visibility at Intersections**

No sign, fence, wall, hedge, shrub planting or tree foliage which obstructs vision at elevations between three (3) and seven (7) feet above the street level shall be placed or maintained within the triangular area formed by two (2) intersecting street lines and a line connecting points thereon thirty (30) feet distant from their point of intersection.

### **Section 3 Limitation on Location of Accessory Uses**

- 3.1 No accessory structure shall be located in a required in a required front or side yard, except an accessory swimming pool that may be located in that part of a front yard in excess of the requirement and within twenty feet of the rear or side property lines.
- 3.2 Except for corner visibility provisions (Article IV, Section 2) access drives or walks, flagpoles, unenclosed steps or terraces not extending more than one (1) foot above the adjoining finished grade or fences not over three and one-half (3 ½) feet in height may be located in any required open area, and a fence not over six (6) feet in height may be located in any rear or side yard except an exterior side yard, notwithstanding any of the above provisions.

### **Section 4 Exceptions to Height Limitations**

- 4.1 Chimneys, flues, spires and belfries.
- 4.2 Elevator or stair bulkheads, roof water tanks or cooling towers (including enclosures); provided that such structures, in the aggregate, do not occupy more than ten percent (10%) of the roof area.
- 4.3 Flagpoles, radio or television antennas, masts or aerials, located on a building and extending not more than twenty (20) feet above the roof of such building.

### **Section 5 Exceptions to Yard Requirements**

#### **5.1 Front Yard Exceptions**

A proposed building need not have a deeper front yard than the average of existing buildings within one-hundred fifty (150) feet on either side of the proposed building.

#### **5.2 Side Yard Exception for Corner Lots**

On a corner lot where the rear lot line coincides with a side lot line of an adjoining lot, the required width of the exterior side yard shall not be less than the front yard requirements along the street on which the exterior side yard abuts.

### **5.3 Rear Yard Exception for Through Lots**

On a through lot, where the rear lot line coincides with a street line, a front yard equivalent shall be provided. The rear yard depth requirements in the district regulations shall not apply on that portion of a through lot where a front yard equivalent is required.

## **Section 6 Sign Regulations**

### **6.1 Purpose**

To create a more attractive economic and business climate and to enhance and protect the physical appearance of the general community by regulating future outdoor advertising.

### **6.2 Regulations**

Signs may be erected and maintained only when in compliance with the following regulations and under the direction of the Zoning Enforcement Officer of the Town of Bennington. Zoning Permits are required for all signs except for those types listed below under subsection 1:

1. Signs permitted in Residential and Agricultural Districts:
  - a. Sale or Rental – One non-illuminated sign per lot, not larger than six (6) square feet in area.
  - b. Institutional – One sign, not larger than twelve (12) square feet in area.
  - c. Development Identification – One non-illuminated sign per subdivision, not larger than twenty (20) square feet in area and no closer than seventy-five (75) feet from the centerline of any road.
  - d. Farm Product Stand – Accumulation of all signs not to exceed thirty-two (32) square feet and set back at least six (6) feet from the side lot line and the nearest right-of-way line of any street, road or highway.
2. Signs permitted in Business and Industrial Districts:
  - a. All types as permitted and regulated above under subsection 1.
  - b. Identification Signs – Two Permitted; one freestanding and one building mounted.
    1. Freestanding – no larger than one hundred (100) square feet in total area with the base at least three (3) feet above ground level. Setback shall be one (1) foot for each foot of height; maximum height is twenty (20) feet.
    2. Building Mounted – no larger than one hundred (100) square feet in total area. Sign shall not extend above the highest point of the roof line nor more than eighteen (18) inches from the exterior wall.
  - c. Electronic Variable Message Signs are permitted within Business Districts on a New York State Highway with the following regulations:
    1. Minimum duration of a message must be eight (8) seconds.
    2. Transition time from one message to the next must be instantaneous

3. Spacing – if more than one EVMS sign face is visible to the driver at the same time on either side of the highway, the signs must be at least three hundred (300) feet apart on the highway.
4. Maximum brightness – Five thousand (5,000) candelas per square meter (daytime) and two-hundred eighty (280) candelas per square meter (nighttime).
5. Maximum size – Forty (40) square feet of the electronic portion of the sign.

### **6.3 General Regulations**

The following regulations apply to all districts:

- 6.3.1 Flashing, oscillating, portable or electronic variable message signs: None permitted except as noted in Article IV, Section 6.2.2, c.
- 6.3.2 Off-premise Signs or Billboards: None permitted
- 6.3.3 Construction of Signs – Signs shall be constructed of durable materials and shall be maintained in good condition.
- 6.3.4 Signs in Streets – No signs other than traffic signs may be erected within or over the right-of-way of any street, road or highway.
- 6.3.5 Home Occupation Signs – Signs identifying a home occupation shall not exceed one in number and four square feet in area. If freestanding, such sign shall be at least ten (10) feet from a lot line and no higher than five (5) feet above finish grade.
- 6.3.6 Temporary Signs – All request for temporary signs advertising special events may be approved by the Zoning Enforcement Officer for a reasonable time period not to exceed thirty (30) days. Also, on construction sites, one sign not to exceed twenty (20) square feet in area, may be approved by the Zoning Enforcement Officer to advertise the facility and name of the contractor during the actual construction period only.

### **6.4 Removal of Certain Signs**

- 6.4.1 In the event of the violation of this Local Law, the Zoning Enforcement Officer shall give written notice to the owner of the sign and to the owner of the land on which such sign is erected, specifying such violation.
- 6.4.2 The sign shall be made to conform to this Local Law or be removed by its owner or the owner of the land within ten (10) days from the date of notice of violation. On failure to comply, the Zoning Enforcement Officer is authorized to remove, or cause to be removed, the sign and to assess all costs and expenses incurred in that removal to the land owner.
- 6.4.3 Any sign which is deemed to interfere with, or cause a hazard or unsafe condition to the General Public may be required by the Zoning Enforcement Officer to be either corrected or removed within three (3) days after notification to the property owner or owner of the sign, or person occupying the lands.

**6.5 Administration and Enforcement**

- 6.5.1 Permits – when a zoning permit is required for erection, alteration or reconstruction of a sign, such shall be obtained from the Zoning Enforcement Officer.
- 6.5.2 Fees – Zoning Permits issued for signs under this Local Law are subject to the following fees:
  - Construction costs under \$500.....\$5.00
  - \$500.00 - \$999.99.....\$10.00
  - \$1,000.00 - \$9,999.99.....\$20.00
  - \$10,000.00 - \$19,999.99.....\$30.00
  - \$20,000.00 - \$35,000.00.....\$40.00
- 6.5.3 Penalties – See Article V, Section 4

**Section 7 Automotive Use Areas**

Any portion of a lot used for open off-street parking or reservoir space for open sales, service or storage areas for motor vehicles, contractor’s equipment or boats shall be deemed to be an automotive use area. New automotive use areas or enlargements of existing automotive use areas shall be subject to the following requirements:

- 7.1 Surfacing – every automotive use area and access driveway thereto shall be surfaced with a durable and dustless material and shall be so grated and drained as to dispose of surface water accumulations.
- 7.2 Lighting – Any fixture used to illuminate any automotive use area shall be so arranged as to direct the light away from the street and from adjoining premises in any R District.
- 7.3 Screening – Every automotive use area, except off-street parking areas for less than five (5) vehicles shall be screened from any adjoining lot in any R District, including lots situated across the street, as follows:
  - 7.3.1 Along a street line by a planting strip five (5) feet wide; provided, however, that no shrub planting or tree foliage shall be placed or maintained which obstructs vision at an elevation between three (3) and seven (7) feet above the street level. Such screening may be interrupted by normal entrances or exits.
  - 7.3.2 Along a rear lot line or an interior side lot line by a compact evergreen hedge which will reach a height of five (5) feet within three (3) years, or by a solid fence or masonry wall five (5) feet in height. Such screening shall be maintained in good condition at all times.
- 7.4 Access – no entrance or exit to any automotive use area shall be permitted within thirty (30) feet of any intersecting street lines and, except for off-street parking areas for uses permitted in any R District requiring less than ten (10) parking

spaces, no entrance or exit shall be permitted within ten (10) feet of a lot in any R District. Access to automotive use areas, except for off-street parking areas in R Districts for less than ten (10) vehicles shall be approved by the Zoning Enforcement Officer and shall be so arranged that vehicles shall not back into a street.

- 7.5 Restriction – No automotive use area shall be used for auto wrecking or for storage of wrecked, partially dismantled or junked vehicles or equipment, or motor vehicles which do not qualify for New York State motor vehicle registration.

**Section 8 Off-Street Parking Regulations**

**8.1 Open Off-Street Parking**

8.1.1 In any Business or Manufacturing District, open off-street parking may occupy any required yard except as otherwise provided for visibility and screening and except that it shall not be permitted within ten (10) feet of a street line or ten (10) feet of a lot in any R District.

8.2 After the effective date of this Local Law, off-street parking spaces shall be provided as hereinafter specified at the time a building or structure is erected, or at the time a new use of open land is established. In the case of an enlargement of any existing building, structure or use after the effective date of this Local Law, off-street parking spaces shall be provided as hereinafter specified for the enlarged portion of such building, structure or use.

8.3 No existing off-street parking area shall be reduced in capacity so as to be less than required by this Local Law, or, if such parking capacity is already less than herein required, such parking area shall not be further reduced; provided, however, that a reduction in such existing parking area shall be allowed if equivalent parking space is provided for the use involved.

8.4 In the case of a change of use which would result in a requirement for a greater parking area than is provided, the Board of Appeals shall determine the number of additional spaces to be required.

**8.5 Required Spaces Enumerated**

**8.5.1 Dwellings**

<b>Single Family, two-family and multi-family dwellings</b>	<b>Two (2) spaces for each dwelling unit.</b>
Tourist home, hotel, motel, rooming or lodging house	One (1) space for each unit accommodation.
Additional spaces for accessory uses; Office for treatment of humans	Five (5) spaces for each office
Other Offices	Two (2) spaces for each office

**8.5.2 Institutional Uses**

<b>Hospital</b>	<b>One and one half (1 ½) spaces for each bed</b>
Sanitarium, Convalescent Home	One (1) space for each five (5) beds
Home for the Aged, Orphanage	One (1) space for each five (5) persons in residence

### 8.5.3 Places of Assembly

<b>School</b>	<b>One (1) space for each classroom plus one (1) space for each five (5) seats in the auditorium or stadium, whichever is greater</b>
Churches; principal or accessory auditorium, theater, stadium or sports arena	One (1) space for each five (5) seats
Library, museum or art gallery	One (1) space for each three-hundred (300) feet of gross floor area
Bowling alley	Ten (10) spaces per alley
Dance hall or studio, skating rink or other places of public amusement not otherwise specified	One (1) space for each one-hundred (100) square feet of gross floor area
Eating or drinking establishments, principal or accessory – Drive in type	Three (3) spaces for each twenty-five (25) square feet of gross floor area
Eating or drinking establishments, principal or accessory – Other types	Two (2) spaces for each five (5) seats
Club or lodge	One (1) space for each one-hundred (100) square feet of floor area used for club or lodge purposes plus one (1) space for each sleeping room.
Mortuary or Funeral Home	Ten (10) spaces for each parlor
Swimming pools, principal or accessory, other than private pools	One (1) space for each twenty-five (25) square feet of pool area.

### 8.5.4 Business or Industrial Uses

<b>Furniture, floor covering or appliance stores, custom shops, wholesale business</b>	<b>One (1) space for each seven-hundred (700) square feet of gross floor area</b>
New or used car sales	One (1) space for each seven-hundred (700) square feet of sales area within a building, but not less than five (5) spaces for customer parking and one (1) space for each three (3) employees.

	Such spaces shall be clearly marked and shall not be used for the parking of unregistered motor vehicles.
Gasoline station, public garage or repair garage, principal or accessory	Three (3) spaces for each service bay.
Food store, shopping center or group of stores over 20,000 square feet of gross floor area	One (1) space for each one-hundred (100) square feet of gross floor area.
Individual retail stores	One (1) space for each one-hundred seventy-five (175) square feet of gross floor area.
Doctor, dentist or real estate office	Five (5) spaces for each office.
Other business or professional offices or banks	One (1) space for each one-hundred seventy-five (175) square feet of gross floor area.
Manufacturing, storage or other industrial floor area	One (1) space for each one-thousand square feet of gross floor area used for such purposes, but shall not be less than one (1) space for each two (2) employees and need not be more than one (1) space for each one and one-half (1 ½) employees.

**8.5.5 Other**

<b>All other principal uses not above enumerated or excepted</b>	<b>One (1) space for each three-hundred fifty (350) square feet of gross floor area.</b>
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**8.5.6 Mixed uses**

Except as otherwise provided in Article IV, Section 11, where any building or lot is occupied by two (2) or more uses having different parking requirements, the parking requirements for each use shall be computed separately to determine the total off-street parking requirement.

**Section 9 Units of Measurement**

**9.1 Size of Parking Space**

For the purpose of computing gross parking area for required off-street parking, three-hundred fifty (350) square feet of unobstructed net standing, maneuvering or access area shall be considered one (1) parking space. However, a lesser area may be considered as one (1) space if the Zoning Enforcement Officer certifies that the layout and design of the parking area are adequate to permit convenient access and maneuvering. In any event, the size of a parking space shall be at least twenty (20) feet long and nine (9) feet wide exclusive of access or maneuvering area.

**9.2 Gross Floor Area**

Gross floor area shall include all areas of a building used or occupied by any traffic generator mentioned in Article IV, Section 8.5; provided, however, that basement or cellar floor area not used for processing, servicing or sales of goods or merchandise shall not be counted as gross floor area.

**9.3 Seats**

In places of assembly where bench-type seats are provided or there standing patrons are served at a counter or bar, each twenty (20) lineal inches of such seating or standing space shall be considered as one (1) seat for the purpose of determining off-street parking requirements.

**9.4 Fractional Units**

When application of the units of measurements to determine required off street parking spaces results in a fractional parking space of one-half (½) or more, one (1) parking space shall be required.

**Section 10 Modification of Required Off-Street Parking Spaces**

**10.1 Accessory Uses**

10.1.1 No off-street parking shall be required for uses accessory to any institutional use specified in Article IV, Section 11, or for an accessory restaurant used primarily for students, patients, tenants or employees occupying a principal building.

10.1.2 In the case of accessory retail stores, restaurants, or swimming pools the parking requirement for either the accessory use or the principal use, whichever requirement is less, shall be reduced by fifty percent (50%).

**10.2 Joint Facilities**

10.2.1 In the case of a church and school on the same lot, the lesser parking requirement shall be waived.

10.2.2 Where places of assembly specified in Article IV, Section 8.5.3 are located on the same lot with other uses, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for such places of assembly.

10.2.3 Where public off street parking facilities are available, other than off-street parking provided for a public building, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for uses located on any lot within six hundred (600) feet of such parking facility.

**Section 11 Site Requirement for Off-Street Parking Spaces**

**11.1 Location of required parking spaces**

**11.1.1 General Provision**

All required off-street parking spaces shall be provided on the same lot with the building or use they serve, except as provided below:

**11.1.2 Group Facilities**

In any Business and Manufacturing District, required off-street parking spaces may be provided in group parking facilities designed to serve two (2) or more buildings or uses on different lots, provided that:

- a. The total parking spaces in such group facility shall not be less than the sum of the requirements for the various uses computed separately, and
- b. All required parking spaces shall be not more than six hundred (600) feet from the boundary of the lot on which such building or uses are located.

**11.2 Encroachment of required parking spaces prohibited**

All areas counted as required off street parking area shall be unobstructed and free of other uses except off-street loading or unloading.

**11.3 Guaranty for off-site parking spaces**

In any case where required off street parking spaces are not provided on the same lot with the building or use they serve, such off-street parking spaces shall be subject to deed, lease or contract restrictions acceptable to the Town Attorney, binding the owner, his heirs or assigns, to maintain the required number of spaces available throughout the life of such use.

**11.4 Additional requirements for all open off-street parking spaces**

All open off-street parking spaces shall be considered as automotive use areas and shall be subject to the Requirements of Article IV, Section 7.

**Section 12 Nonconforming Uses**

**12.1 Continuation of use**

Any use which is made nonconforming by any use, lot or yard size, or building height or size regulation or by any subsequent amendments hereto, may be continued, except as hereinafter provided.

**12.2 Change in Use**

A nonconforming use may be changed to any other use permitted in the district in which the nonconforming use is located. Once a nonconforming use is changed to a conforming use or to a more restricted use, such use thereafter shall not revert to a less restricted use.

**12.3 Extension**

A nonconforming use shall not be extended except that in any district any nonconforming building may be extended or expanded in the following manner; in no case shall such enlargement extend beyond the lot occupied by such nonconforming use. The extension of a nonconforming use hereunder shall be subject to special permit authorized by the Town Board and shall be considered as an individual case. Applications for a special permit shall be obtained from the Town Clerk. The Town Board shall issue or deny permits, as the case may be, taking into consideration the following:

A. Standards applicable to granting a special permit authorizing the extension of a non-conforming use:

1. The location and size of the nonconforming use, the nature and intensity of the operations involved in or conducted in connection with it, the size and site in relation to it, the location of the site in relation to it, the location of the site in respect to streets giving access thereto shall be such that such use will be in harmony with the orderly development of the district in which it is located.
2. Screening or other protective measures shall be adequate to protect any adjacent properties in any R District from objectionable aspects of any such extension of the nonconforming use.
3. Off-street parking areas shall be of adequate size for the particular use, and access drives shall be laid out so as to achieve maximum safety.
4. The Town Board may prescribe any condition that it deems to be necessary or desirable and may require a site plan of the proposed extension of the nonconforming use with pertinent information to aid it in making a determination on the application.

B. Public Hearing

1. Before authorizing a special permit to extend the nonconforming use, the Town Board shall give public notice and hold a public hearing on the application for such permit in the same manner as required by law for amendments to a zoning ordinance.
2. Prior to such public hearing, the applicant shall be referred to the Town Planning Board for report and recommendation. In the event that the Planning Board shall fail to submit a report within sixty (60) days after said referral, the Town Board shall hold such public hearing at the earliest possible date.

C. Limitations

A special permit authorizing the extension of a nonconforming use shall be deemed to authorize only the particular use or uses specified in the permit and shall apply only to the area specified in the permit. A special permit issued under this section shall expire if the nonconforming use is not extended or enlarged within one (1) year from the date of issuance.

D. Renewal and Fees

A special permit must be renewed annually on or before the date of the first Town Board meeting in March of each year. A fee will be charged each applicant for a special permit in an amount to be set by the Town Board annually.

**12.4 Repair or Alteration**

- 12.4.1 Nothing herein shall be deemed to prevent normal maintenance of a building or other structure containing a non-conforming use, including non-structural repairs and incidental alterations not extending the non-conforming use provided any

replacement or repair of a mobile home authorized by Article II, Section 2.1.1, N.3 shall be by special permit of the Board of Appeals.

- 12.4.2 No structural alterations shall be made in a building or structure containing a nonconforming use except:
- A. When required by law and authorized by Article II, Section 2.1.1, N.3 of this Local Law.
  - B. To restore to a safe condition any building or structure declared unsafe by the Zoning Enforcement Officer
  - C. To accomplish permitted enlargements
  - D. To accomplish a change to a more restrictive use

**12.5 Restoration**

Such nonconforming building or structure which has been damaged or destroyed by any means to the extent of fifty percent (50%) or more of the equalized assessed value, as determined by a Town Assessor, or which has been condemned by the Zoning Enforcement Officer and ordered to be demolished, shall not be rebuilt or repaired except in conformance with the regulations of this Local Law. In the case of a permitted replacement or restoration of a nonconforming use, neither the floor area nor the content shall be increased from the original non-conforming building, mobile home or other structure except as provided under Article II, Section 2.1.1, N.3 of this Local Law.

**12.6 Discontinuance**

In any district, whenever a nonconforming use of land, building, mobile home or other structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such nonconforming use shall not thereafter be re-established and all future use shall be in conformity with the provisions of this Local Law. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, mobile homes, other structures, machinery, equipment or other evidence of such nonconforming use of the lands or premises, the abandonment shall be construed and considered to be completed upon such abandonment and all rights to reestablish such nonconforming use shall thereupon terminate with the exception of the replacement of a mobile home as provided in Article II, Section 2.1.1, N.3.

## Article V – Administration & Enforcement

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### **Section 1 Administration Officer**

Unless otherwise provided, the provisions of this Local Law shall be administered and enforced by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall keep a complete file of all applications, permits, orders, certificates, requirements and decisions affecting each and every application filed pursuant to this Local Law.

### **Section 2 Building Permit and Certificate of Occupancy**

- 2.1 No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the Zoning Enforcement Officer. A building permit is, however, not required for the erection or replacement of farm structures or additions to farm structures when the gross floor area in the new structure or addition does not exceed four-hundred (400) square feet. A building permit is not required for metal sheds, pre-fabricated tool sheds or small storage buildings where the gross floor area does not exceed one-hundred (100) square feet. Application for a single one or two family dwelling shall include four (4) copies of a plot plan showing dimensions of the lot, location of existing or proposed buildings and a house plan. For other development, see Section 3: Site Plan below. Fees shall be established by Resolution of the Town Board.
- 2.2 No use or occupancy of land or buildings shall be established until a certificate of occupancy has been approved by the Zoning Enforcement Officer. Such permit shall not be issued unless the premises comply with the requirements of this Local Law and other applicable regulations.
- 2.3 No pond shall be constructed, added to or altered until a permit therefore has been issued by the Zoning Enforcement Officer.

### **Section 3 Site Plan Requirements**

The following site plan requirements are intended to secure compliance with the standards set forth in this Local Law and with the objectives of the General Development Plan.

#### **3.1 Preliminary Site Plan Requirements**

- 3.1.1 Application for preliminary site plan approval shall be made to the Planning Board and shall be accompanied by five (5) copies of the following information prepared by a licensed engineer, architect or landscape architect:
  - A. Title of drawing, including name of development, name of applicant and person who prepared the drawing.
  - B. North point, scale and date.
  - C. Topography at five (5) foot contour intervals.
  - D. Boundary survey of the proposed site area and its acreage bearing the seal of a licensed surveyor.
  - E. Soil characteristics of the site including extent and types of existing vegetation.

- F. Existing and proposed wet and dry water courses and direction of flow.
- G. Layout of proposed property and lot lines including property which is to be offered for dedication or other disposition for public ownership and use with the purpose indicated and property that is proposed to be reserved by deed covenant for common use.
- H. Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of water supply and sewage disposal and capacity and location of such facilities; location of fire hydrants.
- I. Statement regarding the adequacy of other existing utilities, including sanitary and storm sewers, water, gas and electric serving the site.
- J. Statement regarding the adequacy of other existing public facilities and services to serve projected needs of the proposed development.
- K. Location and proposed development of all open spaces including parks, playgrounds, screen planting and other landscaping.
- L. The lines of existing and proposed streets and bicycle or pedestrian ways within, connecting to and immediately adjoining the proposed site and the names of all proposed streets.
- M. Location, proposed use, floor area and height of all buildings, location of all parking and service areas with access drives.
- N. Location, size, materials and design of lighting facilities, signs and monuments.
- O. Provision for all storm water management including but not limited to location and type of flood proofing measures where needed, retention areas, open storm water facilities and underground tiled drainage as well as drainage channels both proposed and to remain including data of gradients of the new system relative to existing facilities and a time schedule for the provision of such facilities. This shall include all ditches, swales, ponds and like facilities including the acre-feet and or cubic foot per second (CFS) capacity of such facilities where applicable.

**3.2 Final Site Plan Requirements**

- 3.2.1 In addition to preliminary site plan requirements, the following information is required:
- A. Complete dimensioning, numbering systems for lots and buildings and other similar information not contained in the preliminary site plan.
  - B. Preliminary plans and profiles showing the locations and a typical cross section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, street lighting standards and street signs; the locations, size and invert elevations of existing and proposed sanitary sewers, storm water drains and fire hydrants; and the location and size of all underground utilities or structures.
  - C. Building construction drawings in sufficient detail to permit review and approval under the State Building Code.
  - D. A planting plan indicating location of trees and other materials planted and of existing trees and other materials to be preserved or those to be removed and

information regarding preservation or creation of unique natural areas, grassland, wetland, marshland and wildlife resources.

- E. The proposed forms of covenant running with the land, deed restrictions (including those with respect to the use of common land); covenants, restrictions or easements proposed to be recorded; and covenants proposed for maintenance.
- F. An updated development schedule covering the site plan area. The schedule shall include the improvement of open space, the construction of buildings and structures in the open space, and the construction of other improvements in the site plan area, and the proposed coordination of such activities.

## **Section 4 Violations**

### **4.1 Penalties**

A violation of this Local Law is hereby declared to be an offense, punishable by a fine not exceeding one hundred (100) dollars or imprisonment for a period not to exceed six (6) months.

- 4.1.2 A person shall be subject to the penalties imposed by this section where and order to remove any violation of any of the provisions of this Local Law has been served by the Zoning Enforcement Officer upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof, or upon the architect, builder, contractor or anyone who commits or assists in any such violation and where such person shall fail to comply with such order within ten (10) days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable hereunder.

### **4.2 Other Remedies**

In addition to the foregoing remedies, the Town of Bennington may institute any appropriate action or proceeding to prevent, correct or restrain any violation of this Local Law.

## **Section 5 Board of Appeals**

### **5.1 Creation and Organization**

The Board of Appeals, consisting of five (5) members, as constituted and empowered under Section 267 of the Town Law, on the effective date of this Local Law, shall be continued. Vacancies occurring in such Board shall be filled in accordance with Town Law. The Board of Appeals shall have all the powers and perform all the duties prescribed by statute and by this Local Law.

## **Section 6 Powers and Duties of Board of Appeals**

### **6.1 Appeals for Interpretation**

The Board of Appeals shall hear and decide appeals where it is alleged that there is an error or misinterpretation in any order, requirement, decision or determination by any administrative official charged with the enforcement of the provisions of this Local Law. The Board of Appeals may reverse, modify or affirm, in whole or in part, any such appealed order and may make such order, requirement, decision or

determination as in its opinion out to be made in strictly applying and interpreting the provisions of this Local Law, and for such purposes shall have all the powers of the officer from whom the appeal is taken.

## **6.2 Appeals for Variance**

- 6.2.1 On an appeal from an order, requirement, decision or determination of any administrative official charged with the enforcement of this Local Law, where it is alleged by the appellant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict application of any provision of this Local Law, the Board of Appeals may grant a variance in the strict application of such provisions provided that all of the following findings are made:
- A. That there are unique circumstances or conditions peculiar to the particular property and that the practical difficulties or unnecessary hardship are not due to the circumstances or conditions generally created by the provisions of this Local Law in the zoning district in which the property is located.
  - B. That such circumstances or conditions are such that the strict application of the provisions of this Local Law would deprive the applicant of the reasonable use of the property and that the granting of the variance is therefore necessary to realize a reasonable use of the property.
  - C. That the variance, if granted, will be in harmony with the general purpose and intent of this Local Law and will not be injurious to the neighborhood or impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare.
  - D. That such practical difficulties or unnecessary hardship are not self-created by any person having an interest in the property through disregard for or ignorance of the provisions of this Local Law, provided, however, that where all other required findings are made, the purchase of property subject to a variance grant, shall not itself constitute a self-created hardship.
  - E. That within the intent and purposes of this Local Law the variance, if granted, is the minimum variance necessary to afford relief.
- 6.2.2 In granting a variance the Board of Appeals may vary or modify the provisions of the Local Law so that the spirit of the Local Law shall be observed, public safety secured and substantial justice done. Toward this end, the Board of Appeals may prescribe such conditions or restrictions as it may deem necessary. Such conditions or restrictions shall be incorporated in the building permit and the certificate of zoning compliance.

## **6.3 Special Permits**

- 6.3.1 That Board of Appeals shall bear and decide all applications for special permits or for modification of this Local Law in all such cases upon which the Board of Appeals is specifically authorized to pass or to make any other determination required herein. All uses listed as subject to a special permit authorized by the Board of Appeals are declared to possess characteristics of such unique and special form that each use shall be considered as an individual case. Such uses shall be deemed to be permitted uses in their respective districts subject to the requirements hereof.

- 6.3.2 In authorizing any specified special permit or modification or in making any required determination the Board of Appeals may prescribe appropriate conditions to minimize adverse effects on the character of the surrounding area and to promote the purposes of this Local Law.
- 6.3.3 No permit or modification of the provisions of this Local Law shall be authorized by the Board of Appeals unless it finds that such special permit or modification:
- A. Will be in harmony with the general purposes and intent of this Local Law, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with it and the size of the site in respect to the streets giving access thereto.
  - B. Will not tend to depreciate the value of adjacent property, taking into account the possibility of screening or other protective measures to protect adjacent properties in any R District.
  - C. Will not create a hazard to health, safety or general welfare.
  - D. Will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.
  - E. Will not otherwise be detrimental to the public convenience or welfare (see Article I, Section 3).
- 6.3.4 In addition to the power to grant special permits in cases specified elsewhere in this Local Law, the Board of Appeals may authorize a temporary and revocable permit for not more than two (2) years for uses and structures that do not conform with the regulations of this Local Law for the district in which located, providing the following findings are made:
- A. Such use is of a temporary nature and does not involve the erection or enlargement of any permanent structure
  - B. In case of a renewal of such permit, that all conditions and safeguards previously required have been complied with.
  - C. In the case of continuation of temporary structures or uses incidental to construction work for a period in excess of one (1) year:
    - 1. The nature and scale of the construction is such as to require a longer period of time for completion and
    - 2. Such construction has been diligently prosecuted or that any delays have been unavoidable.
- 6.3.5 The permit fee is one hundred twenty-five dollars (\$125.00) and shall be for a period of one (1) year and renewable at the discretion of the Town Board, without a further Public Hearing. The activity or business shall be completely enclosed, and shall apply only to persons residing on the premises and the Town Board, in its discretion, may allow parking space not to exceed parking for three (3) vehicles. The Town Board may allow a non-illuminated sign, not to exceed an area of two (2) square feet, to be affixed to the structure.

## **Section 6.4 Procedure of Board of Appeals**

### **6.4.1 General Provisions**

The Board of Appeals, consistent with the laws may adopt rules of conduct and procedure.

### **6.4.2 Filing Appeals**

An appeal to the Board of Appeals from any ruling of any administrative officer charged with the enforcement of this Local Law may be taken by any person aggrieved or by any officer, department, board or bureau of the Town. Such appeal shall be taken, within such time as shall be prescribed by the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer for whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

### **6.4.3 Filing Applications – Fees**

An application for any matter upon which the Board of Appeals is required to pass, may be made to the Town Clerk by the owner, tenant of the property (or a duly authorized agent) for which such appeal or application is sought. A fee of thirty-five dollars (\$35) shall be deposited.

### **6.4.4 Meetings, Witnesses and Records**

- A. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. All meetings shall be open to the public. The Chairman of the Board of Appeals, or in his absence the acting chairman may administer oaths and compel the attendance of witnesses.
- B. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.

### **6.4.5 Stay of Proceedings**

Any appeal to the Board of Appeals shall stay all proceedings in the furtherance of the action appealed from except as otherwise provided in Section 267 of the Town Law.

### **6.4.6 Public Hearing**

The Board of Appeals shall fix a reasonable time for a hearing of an appeal, applications for special permits or modifications of regulations, or other matters referred to it, and shall give public notice thereof by publication in the official paper at least ten (10) days prior to the date of such hearing and shall, at least ten (10) days before such hearing, mail notices thereof to the parties thereto.

6.4.7 Decisions of the Board of Appeals

The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from, or to decide in favor of the applicant any matter upon which it is required to pass under this Local Law, or to effect any variation in this Local Law. Every decision of the Board of Appeals shall be by resolution. Where findings are required, the decision shall set forth each required finding, supported by substantial evidence or other data considered by the Board of Appeals in each specific case, or, in the case of denial, the decision shall include the findings not satisfied.

6.4.8 Lapse of Authorization

Any variance, special permit or modification of regulations authorized by the Board of Appeals shall be automatically revoked unless a building permit conforming to all the conditions and requirements established by the Board of Appeals is obtained within six (6) months of the date of approval by the Board of Appeals and construction commenced within one (1) year of such date of approval.

6.4.9 Violation of Conditions or Restrictions

Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance or application for a special permit or a modification of regulations shall constitute the basis for revocation of a variance, special permit or modification or for imposing penalties and other applicable remedies.

**Section 6.5 Amendments**

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Town Planning Board, after proper public notice and public hearing, amend, supplement or repeal the regulations, provisions or boundaries of this Local Law.

6.5.1 Procedure

- A. Filing of petition: A petition to amend, change or supplement the text of this Local Law, or any zoning district as designated on the Zoning Map established herein, shall be filed with the Town Clerk on forms obtained from their office and shall be transmitted by them to the Town Board.
- B. Referral to Planning Board: Each proposed amendment, except those initiated by the Town Planning Board, shall be referred to the Town Planning Board for an advisory report prior to the public hearing held by the Town Board. In reporting, the Town Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment and if it shall recommend adoption, shall describe any changes in conditions which it believes make the amendment is in harmony with general development plan for land use in the Town.
- C. Public Hearings, Official Notice and Recording: Unless otherwise provided, the provisions of Section 264 of Article 16 of the Town Law, and subsequent amendments thereto, pertaining to public hearings, official notice and proper

recording of zoning actions taken by the Town Board shall apply to all amendments to this Local Law. Property owners bordering a proposed zone change area shall be notified by letter.

- D. Protests: In case of a protest against any change signed by owners of twenty percent (20%) or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending three hundred (300) feet therefrom or of that directly opposite thereto, extending three hundred (300) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.
- E. Rehearing on Petition: The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial, unless the Town Planning Board shall submit a recommendation, with reasons state therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board.

## Article VI – Word Usage and Definitions

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### Section 1 Word Usage

The following rules of construction of language shall apply to the text of this Local Law.

- 1.1 Words used in the present tense include the future tense.
- 1.2 Words used in the singular include the plural, and words used in the plural include the singular.
- 1.3 The word “lot” includes the word “plot” or “parcel”
- 1.4 The word “person” includes an individual, firm or corporation.
- 1.5 The word “shall” is always mandatory.
- 1.6 The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
- 1.7 Any reference to an “R” district shall be interpreted to mean any district with the prefix letter R or A
- 1.8 A “building” or “structure” includes any part thereof.
- 1.9 Any reference to a “B” district shall be interpreted to mean any district with the prefix letter B.
- 1.10 Any reference to an “M” district shall be interpreted to mean any district with the prefix letter M.
- 1.11 “And” indicates that all connected items, condition, provisions or events may apply singly or in any combination.
- 1.12 “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- 1.13 “Either...or” indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.

### Section 2 Definitions

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

- 2.1 **Accessory use or structure:** A use or structure customarily incidental and subordinate to the principal use or building and (except otherwise provided) located on the same lot with such principal use or building.
- 2.2 **Alteration:** Any change, rearrangement or addition or any relocation of, a building or structure; any modification in construction or equipment.
- 2.3 **Attic:** Any area under a roof, with or without a finished floor, which does not meet other requirements for livable floor area.

- 2.4 **Basement:** That portion of a building that is partly below grade which has more than half (1/2) of its height, measured from floor to ceiling, above average finished grade of the ground adjoining the building.
- 2.5 **Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.
- 2.6 **Building, Completely Enclosed:** A building consisting of a permanent roof and exterior walls, pierced only by windows and doors.
- 2.7 **Building Height:** The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip or gambrel roofs. For the purpose of determining maximum permitted height for principal buildings, such measurement shall be made from the average finished grade at the front setback. For the purpose of side yard or rear yard determination, such measurement shall be made from the average finished grade of the wall extending along such side yard or rear yard.
- 2.8 **Cellar:** That portion of a building that is partly below grade, which has more than half (1/2) of its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the building.
- 2.9 **Dwelling:** A building used as the living quarters for one (1) or more families, but not including a building of mixed occupancy.
- 2.9.1 **Dwelling – Single-Family:** A building containing one (1) dwelling unit and designed or used exclusively for occupancy by one (1) family.
- 2.9.2 **Dwelling – Two-Family:** A building containing two (2) dwelling units and designed or used exclusively for occupancy by two (2) families living independent of each other; or two (2) one-family dwellings having a party wall in common.
- 2.9.3 **Dwelling – Multi-Family:** A building containing three (3) or more dwelling units and designed or used for occupancy by three (3) or more families living independent of each other.
- 2.10 **Dwelling Unit:** One (1) or more rooms designed for occupancy by one (1) family for cooking, living and sleeping purposes.
- 2.11 **Enlargement:** An increase in floor area of an existing building, or an increase in the area of land use for an existing open use.
- 2.12 **Extension:** An increase in the amount of existing floor area used for an existing use in an existing building.
- 2.13 **Family:** One (1) or more persons living together in one (1) dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this Local Law as an accessory use.
- 2.14 **Garage, Attached:** A private garage with is structurally attached to a principal building and which has livable floor area adjoining one (1) or more walls thereof.

- 2.15 **Garage, Private:** An accessory building or portion of a main building used for the storage of self-propelled vehicles used by the occupants of the premises and which may include space for not more than one (1) passenger vehicle used by others.
- 2.16 **Gasoline Service Station:** Any area of land, including structures thereon, that is used primarily for the sale of gasoline or other motor vehicle fuel; accessory uses may include the sale of oil, other lubricating substances or motor vehicle accessories, or facilities for lubricating, washing, the incidental replacement of parts, or for motor service to passenger automobiles or trucks not exceeding one and one half (1 1/2 ) tons rated capacity; but shall not include general repair, rebuilding or collision service, body repair, frame straightening, painting or upholstering.
- 2.17 **Home Occupation:** Any use customarily conducted entirely within a dwelling or in a building or other structure accessory to a dwelling and carried on only by the residents thereof, and which is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the character thereof.
- 2.18 **Hotel:** A building containing sleeping rooms in which lodging is provided primarily for transient guests for compensation and which may include public dining facilities.
- 2.19 **Junk Business:** The maintenance of a place where junk, waste, discarded or salvaged materials are brought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned; but not including pawn shops, antique shops, establishments for the sale, purchase or storage of used furniture, household equipment, clothing, used motor vehicles capable of being registered, or machinery to be reused for the purpose for which originally manufactured.
- 2.20 **Kennel:** The keeping, for others, of more than two (2) dogs that are more than six (6) months old.
- 2.21 **Livable Floor Area:** The area of the floors of a dwelling, excluding basements not designed for human occupancy, cellars, garages, breezeways, unenclosed or unheated porches or attics. It shall include only such floor area immediately under a roof for which the headroom is not less than five (5) feet, provided that:
- A. At least sixty-five percent (65%) of such floor area has a ceiling height of at least seven (7) feet;
  - B. If any such floor area is situated above another story, it has access to the floor below by a permanent built-in stairway; and
  - C. It meets the requirements of the Building Code for light and ventilation.
  - D. Measurements of livable floor area shall be made from exterior faces of exterior walls or from center lines of party walls, except for areas under a sloping roof.
- 2.22 **Lot:** A parcel of land occupied or capable of being occupied by a principal building or use, or by a group of principal buildings or uses that are united by a common interest or customary accessory buildings or uses, and including such open spaces to be used in connection with such buildings or uses. A lot may or may not be a lot of record.

- 2.23 **Lot, Corner:** A lot at the junction of, and fronting on, two (2) or more intersecting streets.
- 2.24 **Lot, Interior:** A lot other than a corner lot.
- 2.25 **Lot, Through:** A lot in which the front lot line and rear lot line abut a street.
- 2.26 **Lot Depth:** The mean horizontal distance between the front and rear lot lines.
- 2.27 **Lot Width:** The least horizontal distance across the lot between side lot lines, measured at the front setback of a main building erected or to be erected on such lot or at a distance from the lot line equal to the required depth of the front yard.
- 2.28 **Lot Lines:** The property lines abounding the lot. Where a lot abuts on a street or is partly contained in a street, the lot line shall be deemed to be a line drawn parallel to the center line of the street and thirty (30) feet distant therefrom, measured at right angles thereto, but the actual street line shall be construed as the lot line if such street line is established and lies at a greater distance than thirty (30) feet from the center of such street.
- 2.29 **Lot Line, Front:** Where a lot abuts upon only one (1) street, the lot line along such street shall be the front lot line. Where a lot abuts upon more than one (1) street the assessment roll of the municipality shall determine the front lot line.
- 2.30 **Lot Line, Rear:** Any lot line which is opposite and more or less parallel with the front lot line. In the case of a lot which comes to a point at the rear, the rear lot line shall be an imaginary line, ten feet in length, entirely within the lot, parallel to and the most distance from the front lot line.
- 2.31 **Lot Line, Side:** Any lot line which is not a front lot line or a rear lot line.
- 2.32 **Mixed Occupancy:** Occupancy of a building in part as the living quarters for one (1) or more families and in part for some other use not accessory thereto. For the purpose of determining off-street parking requirements, that part of such buildings used as living quarters shall be considered as dwellings.
- 2.33 **Mobile/Manufactured Homes:**
- A. **Permanent Mobile Home Outside of a Trailer Park:** Manufactured housing containing a minimum of 950 square feet of living area, bearing a seal issued by the Federal Department of Housing and Urban Development transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating and electrical systems contained therein. It must be permanently attached to a contiguous front-proof foundation with the running gear and trailer hitch removed. It must have a non-metallic roof with no less pitch than three (3) inches per foot of non-metallic material. It must meet current specifications of Mobile Home Manufacturers Association and Federal Mobile Home Codes. It must also meet all current construction requirements for mobile homes in the State of New York, County of Wyoming and Town of Bennington.
  - B. **Mobile Home:** Manufactured housing means housing containing a minimum of 950 square feet of living area, bearing a seal issued by the Federal

Department of Housing and Urban Development and transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating and electrical systems contained therein. It must meet current specifications of Mobile Home Manufacturers Association and Federal Mobile Home Codes. It must also meet all current construction requirements for mobile homes in the State of New York, County of Wyoming and Town of Bennington.

- 2.34 **Motel:** A building of group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing accessory off-street parking facilities. The term “motel” includes buildings designated as motor lodges, auto courts and similar appellations.
- 2.35 **Nonconforming Use:** Any lawful building or structure or any lawful use of land, premises, building or structure which does not conform to the regulations of this Local Law for the district in which such building, structure or use is located either on the effective date of this Local Law or as a result of subsequent amendments hereto.
- 2.36 **Public Garage or Repair Garage:** Any Garage, other than a private garage or gasoline service station, which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
- 2.37 **Repair:** Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.
- 2.38 **Reservoir Space:** A temporary storage space, exclusive of street area or required parking spaces, for a vehicle waiting for service or admission.
- 2.39 **Setback:** The least horizontal distance from any existing or proposed building or structure to the nearest point in an indicated lot line or street line (street line being defined as the edge of the maintained part of the road or highway).
- 2.40 **Special Permit:** A permit issued under the terms of this zoning law authorizing a specifically designed use that would not be appropriate generally or without restriction through the zoning district but which, if controlled as to area, location or activity and relation to the neighborhood, would, in the opinion of the Town Board, promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, and prosperity or general welfare.
- 2.41 **Street:** Any lane, avenue, road, alley or other way which is an existing public way or which is shown on an approved plot, or any private right of way or easement approved by the Town Board.
- 2.42 **Signs, Electronic Variable Message:** Signs that have the ability to change message or graphic content electronically and where the sign message changes more than once per twenty-four (24) hour period.

## Article VII – Individual Zoned Areas

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### **Section 1 Quiet Times Golf Course**

The applicants, Harold M. Stringham and Freda Stringham, are the owners of and Raymond J. Meisner and Clarine A. Meisner are the purchasers under contract of the following described property situate on Stedman Road in the Town of Bennington, County of Wyoming and State of New York, which hereinafter is referred to as the proposed commercial recreational property:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Bennington, County of Wyoming and State of New York, being part or parcel of a certain township which on a map or survey of divers tracts or townships of land made for the Holland Land Company is distinguished by township No. 10 in the 3<sup>rd</sup> range of said township and which said tract of land on a certain other map or survey of said township into sections and lots made for the said Holland Land Company is distinguished by the north part of lots Nos. 10 and 12 in the 3<sup>rd</sup> section of said township, bounded west by part of lot No. 2 in the 7<sup>th</sup> section, 17 chains and 8 links; north by lots Nos. 11 and 9 in the 4<sup>th</sup> Section, 37 chains, 91 links; east by part of lot No. 8, 17 chains 8 links and south by a line parallel to the north bounds of said lots Nos. 10 and 12, part of said line being the north bounds of lands conveyed to Martha Smith, 38 chains 27 links, containing 65 acres of land, more or less.

The FINDINGS OF FACT & DECISION was filed March 22, 1973.

### **Section 2 Highland Glens, Inc.:**

Highland Glens, Inc. is an existing cluster consisting 109 lots as shown upon a map showing Highland Glens Subdivision and Recreation Area, which map was filed in the Wyoming County Clerk's Office on May 23, 1972, as Map No. 72-5. See Article II, Section 2.5 total.

### **Section 3 Hall Rezoning:**

Pursuant to a meeting held in the Town Hall of the Town of Bennington, Wyoming County, New York, on the 5<sup>th</sup> day of July, 1979 the following amendment to the zoning ordinance was duly adopted by the Town Board to rezone the following described property from its classification of A-R to B to permit construction of a retail automobile sales and service establishment:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Bennington, County of Wyoming and State of New York, being part of Lots No. 9 and 11 of Section 7, Township 10, Range 3 of the Holland Land Company's survey and more particularly bounded and described as follows:

BEGINNING at a point on the centerline of Clinton Street (State Route 354) a distance of 1,729.82 feet west of its intersection with French Road, thence continuing westerly along the said centerline of Clinton street a distance of 1,805.74 feet to a point where Tinkham Road intersects Clinton Street, said point also being the northwest corner of Lot 11; thence south 00° 40' 28" west along the

west line of Lot 11 a distance of 1,956.06 feet to a point; thence north  $88^{\circ} 59' 21''$  east a distance of 1865.61 feet to a point; thence north  $01^{\circ} 05' 00''$  west a distance of 1,978.52 feet to the point or place of beginning containing within said bounds 82.514 acres, more or less.

EXCEPTING and reserving from the above described parcel of land so much thereof as is within the right-of-way of Clinton Street (State Route 354).

## Article VIII – Amendments to the Zoning Map No. 2

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### **Section 1 Amendment to Zoning Map No. 2 of 1985 as Adopted by Local Law No. 2 of the Year 1985**

**Austin Dies Property:** Make Austin Dies Property in Cowlesville Manufacturing (including the property formerly occupied by the Cowlesville Post Office) being parcels #15.3-1-5.1 and #15.3-1-9, 220 Clinton Street and 224 Clinton Street respectively.

**Bennington Park:** Amend Zoning Map so that Bennington Park, located at 521 Burrough Road, Parcel #16.-1-9.11, consisting of 47.27 acres, zoned Seasonal.

**Quiet Times:** Amend Zoning Map so that Quiet Times, located at 2220 Stedman Road, Attica, parcel #18.-1-6, consisting of 62.55 acres, is zoned Business.

**Ironwood:** Amend Zoning Map so that Ironwood Golf Course, located at 1964 Folsomdale Road, parcel #54.-1-8.2, consisting of 128.22 acres, is zoned Business.

**Multi-Use Wellness Center:** Amend Zoning Map so that a portion of parcel #4.-1-22, located at 1961 Church Road, be changed from Agricultural-Residential to Business, namely 2663 feet from the road centerline to the rear of the parcel. The remaining parcel, approximately 500 feet to the rear property line, shall remain Agricultural-Residential.

**Hojnowski Trucking:** Amend Zoning Map so that Hojnowski Trucking, located at 1042 French Road, parcel #30.-1-23.2, consisting of 6.63 acres, is zoned Business.

**Area Redi-Mix:** Amend Zoning Map so that the property located at 434 Clinton Street, Cowlesville, parcel #15.-1-38, consisting of 3.06 acres, is zoned as Manufacturing.

**610 Clinton Street:** Amend Zoning Map so that the former Killian Plumbing and Heating/former Bennington Medical Center, parcel #28.-3-1.11, rezoned from Business to Agricultural-Residential.

## Article IX – Telecommunication Towers and Minor Telecommunication Facilities

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The Town of Bennington recognizes the increased demand for communication transmitting facilities and the need for the services they provide. The intent of this section is to regulate the location, construction and modification of communication and other similarly structured towers, in accordance with the Telecommunications Act of 1996 and other applicable laws.

Exempt from the regulations of this Article are antennas used solely for residential household television and radio reception with a height of less than fifteen (15) feet above existing grade or, if attached to a structure, less than fifteen (15) feet above the maximum height of the building, satellite antennas measuring two meters or less in diameter and minor telecommunication facilities.

### **Section 1 Purpose**

The purpose of these regulations is:

- To accommodate the need for communication towers/antennas while regulating their location and numbers within the community
- Minimize potential adverse visual impact through proper design siting and screening
- Preserve and enhance the aesthetic qualities of the environment
- Provide for the health and safety of the community by avoiding potential damage to adjacent properties through proper siting and engineering
- Requiring joint use of towners, when available, and to encourage the placement of antenna on existing structures to reduce construction of towers in the future.

Applications for the construction or erection of a communications tower in the Town of Bennington shall be permitted by Special Permit from the Town Board. Such permit is based upon the criteria included within this Article. The applicant must also submit Site Plan information and meet all other requirements of this zoning law, unless otherwise specified.

### **Section 2 General Criteria**

- 2.1 No telecommunications tower or facility shall be sited, located, constructed, erected or modified without issuance of a Special Permit. Said Special Permit shall take into consideration the following conditions:
1. That said tower is necessary to meet current or expected demands for service;
  2. That said tower conforms with all applicable regulations set forth by the Federal Communications Commission, Federal Aviation Commission and any other governmental agency with lawful jurisdiction over such facility.
  3. That said tower is considered a public utility by the State of New York.
  4. That said tower is designed and constructed in a manner which minimizes visual impact to the extent practical.

5. That said tower complies with all other regulations of this Zoning Law, unless expressly exempt; and
  6. That said tower is the most appropriate site among those feasibly available.
- 2.2 All applications for telecommunications towers shall be treated as a Type I action under State Environmental Quality Review Act (SEQRA).
  - 2.3 No zoning permit will be issued and no special permit will be approved unless the applicant is a provider licensed by the FCC to provide service in the area or the applicant provides proof of contract with such provider for the site.
  - 2.4 Any submittal requirements for a public hearing for minor telecommunications facilities may be waived by the responsible town boards. The requirement for a public hearing may be waived when the use is co-located on an existing special permitted telecommunications tower or facility.

### **Section 3 Co-Location**

- 3.1 Applicants shall present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as an alternative to the construction of a new tower. Such report shall identify existing communications tower sites and structures exceeding seventy-five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
- 3.2 Applicants intending to share use of an existing tower shall document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs may include, but are not limited to, structural reinforcement, preventing transmission or receiver interference, additional site screening and other changes including real property acquisition or lease required to accommodate shared use.
- 3.3 Applicants proposing to build new towers shall submit a report demonstrating good faith efforts to secure shared use from existing towers, as well as documenting capacity for future shared use from the proposed tower. The application for new towers must show that co-location is not feasible due to one (1) or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of existing and approved communications towers or structures, considering existing and planned use for those facilities.
  - b. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
  - c. Existing or approved communications towers or other structures do not have space on which proposed equipment.
  - d. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
  - e. The property owner or owners of existing communications tower or other structures refuses to allow such co-location.

## **Section 4 Location/Districts**

- 4.1 Special permits for communications towers are allowed within the following zoning districts:
- Agricultural/Residential
  - Residential
  - Residential-Multiple
  - Business
  - Manufacturing

## **Section 5 Dimensional Standards**

- 5.1 All towers shall be located on a single parcel.
- 5.2 A fall zone around any tower as pertains to this law, shall have a radius at least equal to 1.25 times the height of the tower and any antenna attached to its zenith. The entire fall zone may not include any public roads and must be located entirely within the property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any other structure other than those associated with the communications tower. If the communications antenna is attached to an existing structure, relief may be granted by specific permission by the Zoning Board of Appeals on a case-by-case basis.
- 5.3 All towers shall comply with zoning district setback requirements as otherwise stated within the Zoning Law of the Town of Bennington. The size of the leased or owned lot shall be, at a minimum, sufficiently large enough to include the entire fall zone and applicable district setback requirements. A lot leased or owned for the purpose of locating a communications tower shall not result in the creating of a non-conforming lot.
- 5.4 The frontage requirements of the applicable zoning district shall not apply, provided the tower facility is not proposed on a parcel to be partitioned specifically for the facility and/or designed for the occupancy by staff. In the absence of required frontage, an accessway for service vehicles – either through easement, lease or ownership – shall be in accord with Article IX, Section 8.1 herein.

## **Section 6 Height**

- 6.1 Any part of the tower and attachments to be utilized for telecommunications equipment will extend upward only to the lowest height necessary.
- 6.2 No part of any tower or attachments will exceed 150 feet in height.

## **Section 7 Appearance and Buffering**

- 7.1 Tower height, location and design are matters of primary public concern. Such facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences

to the extent possible, the Town Board may impose reasonable conditions on the applicant including the following:

1. The Town Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design.
2. The Town Board will require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and/or to screen the tower to the extent possible from adjacent property or public roadways. Existing on-site vegetation and trees shall be preserved to the extent possible. Applicants should apply the basic principles of design as detailed in "Planning and Design Manual for the Review of Applications for Wireless Telecommunications Facilities" published by the Town of Pittsford and the New York State Department of State, Division of Local Government.
3. Towers shall not be artificially lighted except as required by the Town of Bennington.
4. Towers shall be a non-reflective finish, color subject to Town approval.
5. No tower shall contain any signs or advertising devices. Notwithstanding the foregoing, the Town may require appropriate signage indicating ownership of the facility and telephone numbers to call in case of any emergency.
6. Any accessory structure shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
7. Upon request, the applicant will provide dimensionally accurate examples of the visual appearance of the proposed facility from up to four locations specified by the Town.

## **Section 8 Access, Parking and Safety**

- 8.1 A road turnaround and sufficient parking space shall be provided to assure adequate year round emergency and service access. Maximum use of existing roads, public or private, shall be made. New right of ways established solely for access use to a communications tower shall be at least twenty (20) but no more than thirty (30) feet wide. Road grades shall closely follow natural land contours, to minimize visual disturbances and reduce soil erosion potential. The use of public roadways or road right of ways for the siting of a tower's accessory structure is prohibited. Road surfaces of access driveways shall be centered within right of ways and shall not comprise more than sixty percent (60%) of the width of the right-of-way.
- 8.2 All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight (8) feet high or otherwise sufficiently protected from trespassing or vandalism.
- 8.3 A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct any unauthorized access. Such gate shall not protrude into the public right of way.
- 8.4 The applicant must comply with all applicable state and federal regulations including, but not limited to, FAA and FCC regulations and emissions standards.

- 8.5 There shall be no permanent climbing pegs within thirty (30) feet of the ground on any tower.
- 8.6 Security lighting located on the tower, accessory building or fencing may be provided, if such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeter has been entered.

## **Section 9 Engineering, Maintenance and Time Limits**

- 9.1 During the application process, the applicant shall provide a certification from a qualified, licensed engineer, stating that the tower meets applicable structural safety standards.
- 9.2 Plans for all communications towers must bear the seal of a professional engineer licensed to practice in New York State. Every facility shall be built, operated and maintained to acceptable industry standards including, but not limited to, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- 9.3 The applicant shall also have a structural inspection performed every two years by a licensed professional engineer at the applicant's expense. A report shall be submitted to the Town Board describing the structural integrity of the facility, maintenance issues and repairs needed or made, if any. Structural deficiencies shall be remedied within a reasonable time. Permit renewal application will be accepted upon receipt of the two year inspection report and rectification of deficiencies, if any.
- 9.4 All facilities/towers shall be maintained in good order and repair. Towers may be repaired and maintained without restriction.
- 9.5 A safety analysis by a qualified professional must accompany any Special Permit or Sketch Plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by federal regulations. A copy of any periodic report on radio frequency emissions standards as may be required by the FCC shall also be submitted to the Town Board.

In consideration of a special use permit for the erection and maintenance of a communications tower, the Town Board may impose a specific time period for the operation of the use. Said time limit shall clearly stipulate the conditions imposed for granting the special permit and the basis for the Town Board not to renew said permit for another specified period of time.

## **Section 10 Removal**

- 10.1 The applicant shall remove the tower if the facility becomes obsolete or ceases to be used for its intended purpose for twelve (12) consecutive months. The Town Board may require, at that time, by written notice, that such tower, structures or facilities be dismantled and removed from the site within one-hundred twenty (120) days from the date of such notice. Upon removal, the land shall be restored to its previous condition, including, but not limited to, seeding of affected soils.

- 10.2 The Town Board, as a condition of the Special Permit, may request the applicant to provide a performance bond, letter of credit or other financial guarantee, with the municipality as the assignee, to insure funds for the purposes of removing the facility in case the applicant fails to do so as required above.
- 10.3 At the time of a modification of a Special Permit, the Town Board may request the adjustment of the required amount of the financial security bond to adequately cover any increases in costs for the removal of the tower and property restoration.

## **Section 11 Additional Information Required for Site Plan Review**

- 11.1 The site plan shall include a drawing of the proposed site prepared by and bearing the seal of a professional engineer licensed to do business in the state of New York.
  1. Location of the proposed tower within the parcel.
  2. Location of any/all easement located on the property.
  3. Location of utilities, roadways/driveways, streams and wetlands.
  4. Location of vegetation on the property
  5. Location of existing and proposed structures on the property.
  6. Location of all structures and trees on any adjacent property within fifty (50) feet of the subject property line.
  7. Documentation of the proposed intent and capacity of use.
  8. Justification of the height of tower and antenna(s).
  9. Justification of the proposed clearing of vegetation on the property.
  10. All information prepared by the manufacturer of the tower, or the applicant for which a special use permit is being sought, including but not limited to:
    - a. Type of tower
    - b. Identification of any anti-climbing device to be installed
    - c. Identification of the levels of radiation to be emitted by or from the tower
    - d. Identification of the effects that the operation of the tower will have on other existing communications towers or antenna within one-thousand (1,000) feet of the proposed structure
  11. Topographical data for the proposed site, in five (5) foot increments.
  12. Copy of land survey for the parcel containing the proposed site.
- 11.2 The Planning Board may retain the services of a telecommunications consultant to review the proposed application. All reasonable and necessary consultant costs incurred by the Town in the review of this site plan and application documents shall be borne by the applicant utilizing lawful procedures.

## **Section 12 Fees**

- 12.1 Fees shall be set by resolution of the Town Board

**Town of Bennington**  
**Schedule of Fees for Telecommunication Towers**

Tower Special Use Permit Fee..... \$2,000.00

Building Permit Fee for Towers:

    First One Hundred (100) Feet:..... \$1,000.00

    Next One Hundred (100) Feet (or part thereof):..... \$600.00

    Each One Hundred (100) Feet Thereafter or Part Thereof:..... \$400.00

Co-Location Application Fee:.....\$1,000.00

Co-Location Building Permit Fee:.....\$1,000.00

The above fees were adopted by the Town of Bennington via Local Law No. 3 – 2002

# Article X – Sexually Oriented Businesses and Adult Entertainment Establishments

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## **Section 1 Findings and Purpose**

### **1.1 Findings**

Based upon a comprehensive study of the adverse secondary impacts of adult-use establishments as documented in accordance with the ruling of the U.S. Supreme Court in the matter of the Renton V. Play Time Theaters, Inc. [475 U.S. 41(1986)], the Town of Bennington finds that:

- A. There are adverse secondary impacts associated with the establishment and operation of sexually oriented businesses within a community.
- B. Among these adverse secondary impacts are a deterioration in the local quality of life, an adverse effect upon local property values, an adverse effect upon local economic viability, an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby, an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior, a threat to the health and safety of children and young adults and an undermining of the established sense of community.
- C. These adverse secondary impacts of the establishment and operation of sexually oriented businesses are a threat to the general health, safety and economic viability of the community.
- D. The unregulated establishment and operation of sexually oriented businesses would lead to the wide-spread imposition of adverse secondary impacts upon the residents, businesses, economic viability, property values, and quality of life of the Town would therefore be detrimental to the general health, safety and economic viability of the community.
- E. The U.S. Constitution, and the Constitution and laws of the State of New York grant to the Town of Bennington the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of sexually oriented businesses hereinafter defines, in order to protect the general health, safety and economic viability of the community.

### **1.2 Purpose**

The purpose of this Local Law is to regulate the location and operation of sexually oriented business within the Town of Bennington. The restrictions, regulations and provisions contained in this Local Law are enacted by the Town Board for the protection, health, welfare and safety of the people of the Town of Bennington. It is the express intent of the Town of Bennington in adopting this ordinance to:

- A. Ameliorate, mitigate, reduce or prevent the wide-spread and unregulated imposition of the adverse secondary impacts of sexually oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.

- B. To protect the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses.

1.3 It is not the intent of the Town of Bennington in adopting this ordinance to:

- 1. Deny any person the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses; or
- 2. To impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses, beyond those granted to the Town under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression. These constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by sexually oriented businesses; or
- 3. To impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses, beyond those granted to the Town under the U.S. Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or
- 4. To estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses.

## **Section 2 Sexually Oriented Business, Generally**

- 2.1 No person shall operate a sexually oriented business within the Town of Bennington without first obtaining a license and Special Permit from the Town Board.
- 2.2 The Town Board shall have the following functions, powers and duties:
  - A. After a public hearing, to issue or refuse to issue an initial license provided for in this Local Law; and without a public hearing, to issue or refuse to issue a renewal license provided for in this Local Law.
  - B. After a public hearing, to revoke, cancel or suspend any license provided for in this local law and/or to impose a civil penalty against a licensee for cause and after a hearing.
  - C. To inspect or provide for the inspection of any premises upon which a sexually oriented business is operated.

- D. To prescribe forms of applications for initial and renewal licenses under this Local Law and all reports which it deems necessary to be made by any license.

### **Section 3 License**

- 3.1 Any person may apply to the Town Board for a license to operate a sexually oriented business or for a renewal thereof within the Manufacturing district as specified on the official Zoning Map of the Town of Bennington.
- 3.2 Such license shall contain a description of the licensed premises and in form and substance shall be a license to the person therein specifically designated to operate a sexually oriented business on the premises therein specifically licensed.
- 3.3 Such license shall be valid for a period of one year from the date it is issued.
- 3.4 The annual license fee shall be set on the fee schedule established and annually reviewed by the Town Board.
- 3.5 No license shall be granted under this Local Law for any premises which are located within a distance of:
  - A. Three thousand (3,000) feet from a public or private school (grades pre-school through 12), church or other religious institution, public playground, public swimming area, public park, day care center, family group day care, cultural facility or community areas.
  - B. Two thousand (2,000) feet from a private residence.
  - C. One thousand (1,000) feet from an adjoining lot line.
  - D. Five hundred (500) feet from any other sexually oriented business.
- 3.6 No license shall be granted under this Local Law to the following persons:
  - A. A person who is under twenty-one (21) years of age.
  - B. A person who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.
  - C. A partnership or corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, and is not under twenty-one (21) years of age.
  - D. A person who has had any license issued under this Local Law revoked for cause, until the expiration of two years from the date of such conviction or revocation.
  - E. A partnership or corporation, if any partner, officer or director has had any license revoked for cause, until the expiration of two years from the date of such conviction or revocation.
- 3.7 No license shall be granted for any premises unless the applicant shall be the owner thereof or shall be in possession of said premises under a written lease, specifying the leasees intent to operate a sexually oriented business for a term not less than the license period.
- 3.8 No license shall be granted for any sexually oriented business or adult entertainment business other than within a manufacturing district.

## **Section 4 License Application Procedure**

- 4.1 Applications shall be in writing and verified and shall contain such information as the Town Board shall require and be submitted on forms provided for that purpose by the Town Board. Such application shall be accompanied by a certified check, bank officer's check or draft, or money order for the amount required by this Local Law for such license and the application filing fee. For renewal applications, the Town Board may dispense with such information as it deems unnecessary in view of the information contained in the application made for the initial license.
- 4.2 The application filing fee for an initial license and a renewal license shall be found on the fee schedule established and annually reviewed by the Town Board.
- 4.3 The application for an initial license or a renewal license must be filed with the Town Board at a regular meeting thereof.
- 4.4 At its regular meeting next following the meeting at which the application for an initial license was filed, the Town Board shall designate a date upon which it will hold a public hearing for the purpose of hearing all interested persons. Said public hearing shall be held not more than forty-five (45) days after the meeting of the Town Board at which the date therefore was designated. Notice of said public hearing shall be published in the official newspapers of the Town not less than twenty (20) days prior to the date upon which said public hearing is noticed to be held.
- 4.5 Not more than sixty (60) days following the date of said public hearing, the Town Board shall decide to grant or deny the application. The decision of the Town Board may be reviewed under Article 78 of the Civil Practice Law and rules provided that the Article 78 proceeding is commenced within thirty (30) days of the date upon which a decision of the Town Board is filed with the Town Clerk.
- 4.6 At its regular meeting next following the meeting at which the application for a renewal license was filed, the Town Board shall decide to grant or to deny the application. The decision of the Town Board shall be in writing and shall set forth the reasons for its decision and shall be filed with the Town Clerk. The decision of the Town Board may be reviewed under Article 78 of the Civil Practice Law and rules provided that the Article 78 proceeding is commenced within thirty (30) days of the date upon which a decision of the Town Board is filed with the Town Clerk.
- 4.7 If there is any change, after granting of any license, in any of the facts required to be set forth in the application therefore, a supplemental statement giving notice of such change, duly verified, shall be filed with the Town Board within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license and the imposition of a civil penalty against the licensee. In giving any notice or taking any action in reference to a licensee or licensed premises, the Town Board may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury.

## **Section 5 Provisions Governing Licenses**

- 5.1 No licensee shall sell, deliver or give away or cause or permit or procure to be sold, delivered or given away any alcoholic beverage for consumption on or off the licensed premises.
- 5.2 The licensed premises shall not be open for business or operated during Sunday or any other day from 2:00am to 11:00am.
- 5.3 No licensee shall permit or suffer any person under the age of twenty-one (21) years to enter or remain in the licensed premises.
- 5.4 No licensee shall employ or hire or suffer any person under the age of twenty-one (21) years to work in the premises.
- 5.5 No licensee shall suffer or permit any gambling in the licensed premises.
- 5.6 A license issued to any person pursuant to this Local Law for any licensed premises shall not be transferable to any other person or to any other premises or to any other part of the building containing the licensed premises. It shall be available only to the person therein specified, and only for the premises licensed and no other.
- 5.7 Applications for sign permits for businesses and/or uses covered under this Local Law shall go through a design review process and receive the approval by the Planning Board prior to the issuance of any permit by the Zoning Enforcement Officer. This review shall be similar to the procedures outlined under Site Plan Review but utilized as applicable toward signs. Through the design review process, the Planning Board may review and regulate number, location, size, materials, lighting, colors and texture of all exterior signs in its purview. All exterior signs must be removed from display after thirty (30) days of the discontinuance of any license to operate. One thirty (30) day extension may be requested from and granted by the Zoning Officer.

## **Section 6 Revocation of License for Cause**

- 6.1 Any license issued pursuant to this Local Law may be revoked, cancelled or suspended and/or a civil penalty may be imposed against the license for the following causes:
  - A. If the licensee violates any provision of this Local Law.
  - B. If the licensee transfers, assigns or hypothecates the license.
  - C. If the applicant makes any false statement in the application.

## **Section 7 Procedure for Revocation**

The Town Board may on its own initiative or on verified complaint of any person institute proceeding to revoke, cancel or suspend any license issued under this Local Law and/or to impose a civil penalty against the licensee, after a hearing at which the licensee shall be given the opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed by the Town Board. The decision of the Town Board shall be in writing and shall set forth the reasons for its decision and shall be filed with the Town Clerk. The decision of the

Town Board may be reviewed under Article 78 of the Civil Practice Law and rules provided that the Article 78 proceeding is commenced within thirty (30) days of the date upon which the decision of the Town Board is filed with the Town Clerk.

## **Section 8 Definitions**

**Adult Use and Entertainment:** A public or private establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services: topless or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age.

**Adult Arcade:** Premises upon which, for a monetary consideration, one or more of the machines for viewing by five or fewer persons each are used to show film, motion pictures, video cassettes, slides, or other photographic, electronic or computer generated reproductions that are characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

**Adult Bookstore, Video Store or Market:** Premises upon which a substantial portion (25% or more) of the merchandise offered for sale or rental consists of books, magazines, periodicals, printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations or reproductions that are characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

**Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Motion Picture Theater:** Premises upon which, for a consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown and in which a substantial portion (25% or more) of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

**Adult Theater:** Premises upon which, for a consideration, the exposure of anatomical areas or sexual activity is featured.

**Anatomical Areas:** Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

**Community Areas:** Those areas intended for the beneficial use or enjoyment by all residents of a development, including driveways, roadways, parking areas, walkways, landscaped areas, open space and recreational areas.

**Cultural Facilities:** The building and land used for the purposes of educational entertainment including museums, libraries, art galleries, theaters for the performing arts, institutional philanthropic use, and public meetings.

**Day Care Center:** A facility which is not a dwelling unit in which care is provided on a regular basis to three or more children or adults for more than three hours per day per person.

**Day Care, Family Group:** A dwelling unit which is a residence and occupied as a family residence which provides day care for seven to twelve children or adults.

**Operator:** The person responsible for the overall operation and supervision of a sexually oriented business.

**Park, Dedicated:** Any land and/or associated structures, dedicated by a village, town, county or state, created and maintained by a municipality for the express use and enjoyment by the general public for recreational purposes.

**Private School:** All private, parochial, academic, technical or nursery schools.

**Public Building/Use:** Any building or use that is used for municipal, civic, recreational, or other public purposes, but not including proprietary or enterprise activities.

**Religious Institution:** A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

**Sexual Activity:** Includes the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breasts; or sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or masturbation, actual or simulated; or excretory functions as part of or in connection with any of the foregoing activity.

**Sexually Oriented Business:** Any commercial activity which sells, rents, shows, exhibits, or makes available for sale, rent, showing or exhibition, any material or entertainment distinguished or characterized by an emphasis on depicting or description of anatomical areas or of sexual activity and shall include but not be limited to: adult arcades, adult markets, adult motion pictures theaters, adult theaters and adult video rental/sale stores.

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Protect	Article I, Section 3 Article II, Section 2.1.1, D, E & L
Public	Article I, Section 3.2.1 Article II, Section 1.6 Article II, Section 2.1.2, F & G Article II, Section 2.2.1, B.2.d & i Article II, Section 2.4.1, O.2.a & b Article III, Section 1.3.4; 1.3.5 Article III, Section 1.4.6, C Article III, Section 2.4.6 Article IV, Section 6.4.3 Article IV, Section 8.5.1; 8.5.4 Article IV, Section 9.3 Article IV, Section 10.2.2; 10.2.3 Article V, Section 3.1.1, G Article V, Section 6.2.1, C; 6.2.2 Article V, Section 6.3.3; C, D & E Article V, Section 6.4.4, A Article V, Section 6.4.6 Article V, Section 6.5 Article V, Section 6.5.1, B & C Article VI, Section 2.18; 2.36; 2.40
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Public Hearing (cont.)	Article V, Section 6.4.4; 6.4.6; 6.5 Article V, Section 6.5.1, B, C & E
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Professional, Trades Doctors, Dentists, etc.	Article II, Section 2.1.2, H Article II, Section 2.4.1, H Article III, Section 1.2; 1.3.6, B & C Article IV, Section 8.5.4
<b>R</b>	
Radio	Article II, Section 2.1.2, I Article IV, Section 4.3
Railroad	Article I, Section 4.3.3 Article II, Section 1.6
Recreation	Article II, Section 2.1.1, M.1 Article II, Section 2.1.2, F Article II, Section 2.3.8, B Article III, Section 1.3.3 Article III, Section 1.3.6, E Article III, Section 1.4.6, B Article III, Section 2.1; 2.2.3 Article III, Section 2.4.5, A Article III, Section 3.3.2
Reconstructed	Article II, Section 1.1 Article IV, Section 6.5.1 Article IV, Section 12.5
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Regulation	Article I, Section 3.1 Article I, Section 3.2.1 Article I, Section 4.3.6

Regulation (cont.)	<p>Article II, Section 1  Article II, Section 2.2.1, A; 2.2.2, A; 2.3.1, A; 2.3.2, A  Article II, Section 2.3.8  Article II, Section 2.4.1, A  Article II, Section 2.6.1, A  Article III, Section 1.3  Article III, Section 1.4.3, A  Article III, Section 1.4.5  Article III, Section 1.4.6, B &amp; C.a  Article III, Section 1.4.7  Article III, Section 2.1; 2.2.1; 2.3; 2.4  Article IV, Section 1  Article IV, Section 5.3  Article IV, Section 6  Article IV, Section 12.1; 12.5  Article V, Section 2.2  Article V, Section 6.3.4  Article V, Section 6.4.4, B  Article V, Section 6.4.8; 6.4.9  Article V, Section 6.5</p>
Reservoir Space	<p>Article VI, Section 2.38 (<b>Definition</b>)  Article II, Section 2.4.1, L  Article II, Section 2.4.1, O.2.c &amp; f  Article IV, Section 7</p>
Residential District	<p>Article II, Section 2  Article II, Section 2.2  Article II, Section 2.3</p>
Residents	<p>Article II, Section 2.1.1, N.4.e</p>
Requirements	<p>Article II, Section 1  Article II, Section 2.1.1, M.2 &amp; 3  Article II, Section 2.1.2, H  Article II, Section 2.1.3; 2.1.4  Article II, Section 2.2.3; 2.2.4  Article II, Section 2.3.3; 2.3.4  Article II, Section 2.4.3; 2.4.4  Article II, Section 2.5.2; 2.5.3  Article II, Section 2.6.3; 2.6.4  Article III, Section 2.3  Article III, Section 3.4.2  Article III, Section 4.1; 4.2  Article IV, Section 1.1  Article IV, Section 3  Article IV, Section 5</p>

Requirements (cont.)	<p>Article IV, Section 6.4.3  Article IV, Section 7  Article IV, Section 8.3; 8.4; 8.5  Article IV, Section 8.5.6  Article IV, Section 9.1  Article IV, Section 10  Article IV, Section 11  Article V, Section 1  Article V, Section 2  Article V, Section 3  Article V, Section 3.2  Article V, Section 6.1; 6.2.1  Article V, Section 6.3.1; 6.3.2  Article V, Section 6.3.4, B  Article V, Section 6.4.3; 6.4.4, B  Article V, Section 6.4.7; 6.4.8  Article VI, Section 2.3; 2.21.3; 2.27; 2.32</p>
Riding Stable	<p>Article II, Section 2.1.1, C  Article II, Section 2.2.1, A</p>
Right of Way	<p>Article II, Section 1.6  Article II, Section 2.1.8, A  Article II, Section 2.2.1, B.e  Article II, Section 2.6.1, A  Article IV, Section 6.2.1, D  Article IV, Section 6.3.4  Article VI, Section 2.40</p>
Rivers	<p>Article I, Section 4.3.4</p>
Road	<p>Article VI, Section 2.40 (<b>Definition</b>)  Article II, Section 1.6  Article II, Section 2.1.1, N.4.b  Article II, Section 2.2.1, B.2.t  Article III, Section 2.5.3  Article IV, Section 6.2.1, c &amp; d  Article IV, Section 6.3.4</p>
Roof	<p>Article IV, Section 4.2; 4.3  Article IV, Section 6.2, 2.b.2  Article VI, Section 2.3; 2.5; 2.6; 2.7  Article VI, Section 2.21.3</p>
Run-Way, Animal	<p>Article II, Section 2.1.1, E</p>

## S

Safety	Article I, Section 3.1; 3.2.1 Article II, Section 2.1.1, N.4.b Article II, Section 2.2.1, B.2.q & u Article II, Section 2.5.1, B Article III, Section 2.2.5 Article III, Section 3.1.2 Article IV, Section 12.4.2, B Article V, Section 6.2.2 Article V, Section 6.3.3, C & E
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Sewer	Article II, Section 1.6 Article II, Section 2.1.1, N.2 Article II, Section 2.2.1, B.2.b Article II, Section 2.2.1, B.2.d Article II, Section 2.3.3, A.2 Article III, Section 2.5.3 Article V, Section 3.1.1, H Article V, Section 3.2.1, B
Shops	Article II, Section 2.1.1, J Article II, Section 2.4.2, B Article IV, Section 8.5.4 Article VI, Section 2.19

Site	<p>Article II, Section 2.1.1, N.4.a &amp; b  Article II, Section 2.2.1, B.2.k  Article II, Section 2.2.1, B.2.v  Article III, Section 1.2  Article III, Section 1.3.4  Article III, Section 1.4.1  Article III, Section 1.4.2; 1.4.3; 1.4.5; 1.4.6; 1.4.7  Article III, Section 4.2; 4.3, A  Article IV, Section 6.3.6  Article IV, Section 12  Article V, Section 3.1  Article V, Section 6.3.3, A</p>
Site Plan	See <b>PLAN, SITE</b>
Signs	<p>Article I, Section 3.1.5  Article II, Section 2.1.2, I  Article II, Section 2.1.6  Article II, Section 2.2.6  Article II, Section 2.3.6  Article II, Section 2.4.6  Article II, Section 2.5.5  Article II, Section 2.6.6  Article IV, Section 2  Article IV, Section 6  Article V, Section 3.1.1 L  Article V, Section 3.2.1, B  Article V, Section 6.3.5</p>
Slope	Article II, Section 1.8
Smoke	<p>Article II, Section 2.1.2, I  Article II, Section 2.2.1, B.2.p  Article II, Section 2.5.1, B</p>
Solid Wastes	<p>Article II, Section 2.1.1, M.4  Article II, Section 2.2.1, B.2.p  Article II, Section 2.5.1, B</p>
<b>Space</b>	<p>Article II, Section 1.2; 1.3  Article II, Section 2.2.1, B.2.c &amp; f  Article II, Section 2.4.1, L  Article III, Section 1.1; 1.3.3  Article IV, Section 10.2.2; 10.2.3  Article IV, Section 11  Article IV, Section 12  Article VI, Section 2.15</p>

<i>Open</i>	<p>Article II, Section 1.2, 1.3  Article II, Section 2.2.1, B.2.v  Article II, Section 2.3.8, B  Article III, Section 1.1; 1.3.3  Article III, Section 1.4.2, C; 1.4.6, A  Article III, Section 2.1  Article III, Section 2.2.3; 2.4.5  Article IV, Section 3.1; 3.2  Article IV, Section 8.1.1  Article V, Section 3.1.1, G &amp; K  Article V, Section 3.2.1, F  Article VI, Section 2.22</p>
<i>Parking</i>	<p>Article II, Section 1.3  Article II, Section 2.2.1, B.2.f  Article II, Section 2.4.1, L, O.2.c &amp; f  Article IV, Section 9.1; 9.3; 9.4  Article IV, Section 10  Article IV, Section 11  Article V, Section 6.3.5  Article VI, Section 2.32; 2.34</p>
<i>Reservoir</i>	<p>Article VI, Section 2.38 (<b>Definition</b>)  Article II, Section 2.4.1, L, O.2.c &amp; f  Article IV, Section 7</p>
<i>Required</i>	<p>Article II, Section 2.1.1, C, E &amp; J  Article II, Section 2.2.1, B.2.b, c, e &amp; f  Article II, Section 2.4.1, L, O.2.a, b, c &amp; e  Article IV, Section 8.5  Article IV, Section 10  Article IV, Section 11</p>
<i>Special Permit</i>	<p>Article II, Section 2.1.1, M &amp; N  Article II, Section 2.1.2, I  Article II, Section 2.2.1, B  Article II, Section 2.3.1, D  Article II, Section 2.4.1, O  Article III, Section 1.4.7, B</p>
<i>Special Permit</i>	<p>Article III, Section 4  Article IV, Section 12  Article V, Section 6.3  Article V, Section 6.4.8</p>

Steps	Article II, Section 2.2.1, B.2.u Article IV, Section 3.2 Article IV, Section 4.2 Article VI, Section 2.21.2
Storage	Article II, Section 2.1.1, A Article II, Section 2.1.2, E & I Article II, Section 2.2.1, B.2.p Article II, Section 2.4.1, O.2.d Article II, Section 2.6.2, D Article II, Section 2.6.5, C Article III, Section 3.3.3 Article IV, Section 7 Article IV, Section 8.5.4 Article V, Section 2 Article VI, Section 2.15; 2.19; 2.36; 2.38
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Stream	Article I, Section 4.3.4 Article III, Section 3
Street	Article VI, Section 2.40 ( <b>Definition</b> ) Article I, Section 4.3.1 Article II, Section 2.2.1, B.2.e, i, r, s, t & u Article II, Section 2.4.1, O.2.b Article III, Section 1.1 Article III, Section 2.1 Article III, Section 2.2.4 Article III, Section 4.3, A Article IV, Section 1.1 Article IV, Section 5.2; 5.3 Article IV, Section 6.2.1, c & d Article IV, Section 6.3.4 Article IV, Section 7 Article IV, Section 8; 8.5.6 Article IV, Section 9.1; 9.4 Article IV, Section 10 Article IV, Section 11 Article IV, Section 12 Article V, Section 3.1.1, L Article V, Section 3.2.1, B Article V, Section 6.3.3, A Article V, Section 6.5.1, D Article VI, Section 2.23; 2.25; 2.28; 2.29; 2.32

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Structures	<p>Article VI, Section 2.1 (<b>Definition</b>)</p> <p>Article VI, Section 1.8 (<b>Word Usage</b>)</p> <p>Article I, Section 3.1</p> <p>Article II, Section 1; 1.1; 1.2; 1.3; 1.7; 1.8</p> <p>Article II, Section 2.1.1, A, N.4.c &amp; d</p> <p>Article II, Section 2.5.1, B</p> <p>Article III, Section 1.3.6, A</p> <p>Article III, Section 2.5.4, 2.5.5</p> <p>Article III, Section 3.3.1; 3.3.3; 3.3.4; 3.3.5</p> <p>Article IV, Section 3.1</p> <p>Article IV, Section 4.2</p> <p>Article IV, Section 8.2</p> <p>Article IV, Section 12</p> <p>Article V, Section 2.1</p> <p>Article V, Section 3.2.1, B &amp; F</p> <p>Article V, Section 4.1.2</p> <p>Article V, Section 6.3.4</p> <p>Article VI, Section 2.2; 2.5; 2.16; 2.17; 2.35; 2.37</p>
Subdivision	Article III, Section 2.2.1
Surfaces	<p>Article II, Section 1.8</p> <p>Article II, Section 2.2.1, B.2.e, q &amp; r</p> <p>Article IV, Section 7.1</p> <p>Article V, Section 3.2.1, B</p> <p>Article VI, Section 2.7</p>
Swimming Pools	<p>Article II, Section 2.1.1, J</p> <p>Article II, Section 2.1.2, D</p> <p>Article II, Section 2.6.2, C</p> <p>Article III, Section 3.3.2</p> <p>Article IV, Section 3.1</p> <p>Article IV, Section 8.5.3</p> <p>Article IV, Section 10.1.2</p>
<b>T</b>	
Telephone	<p>Article II, Section 1.6</p> <p>Article II, Section 2.4.1, K</p>
Tent	Article II, Section 2.1.1, N.6
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Top Soil	Article II, Section 2.1.1, M.3
Topography	<p>Article II, Section 1.8  Article III, Section 1.1  Article V, Section 3.1.1, C</p>
Tornado Shelter	Article II, Section 1.8
Tourists	<p>Article II, Section 2.1.2, F  Article IV, Section 8.5.1</p>
Town Attorney	<p>Article III, Section 1.4.6, B  Article IV, Section 11.3</p>
Town Board	<p>Article I, Section 2  Article II, Section 2.1.1, M.2  Article II, Section 2.1.2, I  Article III, Section 1.2  Article III, Section 1.4.3, A; 1.4.4; 1.4.5; 1.4.6 C.a; 1.4.7  Article III, Section 3.4.1; 3.4.2  Article IV, Section 12  Article V, Section 2.2  Article V, Section 6.3.5  Article V, Section 6.5; 6.5.1  Article VI, Section 2.40</p>
Traffic	<p>Article II, Section 2.1.1, N.4.b  Article II, Section 2.2.1, B.2.i &amp; s  Article III, Section 2.2.5  Article IV, Section 6.3.4  Article IV, Section 9.2</p>

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Television	Article II, Section 2.1.2, I Article IV, Section 4.3
Town	See <b>GOVERNMENT</b>

## U

Unlawful	Article II, Section 1.8
Unsightly	Article II, Section 2.1.1, M.2
Unsafe	Article II, Section 2.1.1, M.2 Article IV, Section 6.4.3 Article IV, Section 12.4.2, B
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Vehicle	Article II, Section 2.1.1, N.4.e Article II, Section 2.2.1, B.2.u Article II, Section 2.4.1, N; O.2.c & f; 2.4.4, B.3 & 4 Article III, Section 1.3.3 Article III, Section 2.2.5 Article IV, Section 7 Article VI, Section 2.15; 2.16; 2.19; 2.34; 2.36; 2.38

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Article II, Section 2.2.1, A

Vibration Article II, Section 2.1.2, I  
Article II, Section 2.4.2, B.3  
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Article II, Section 2.1.1, M.2  
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Article V, Section 3.1.1, L  
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Article IV, Section 4.2  
Article IV, Section 7.1  
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Article V, Section 3.2.1, B

Weeds Article II, Section 2.1.1, M.2

Welfare, Public Article I, Section 3.1  
Article I, Section 3.2.1  
Article II, Section 2.5.1, B  
Article V, Section 6.2.1, C

Welfare, Public (cont.)	Article V, Section 6.3.3, C
Width	Article II, Section 1.8 Article II, Section 2.1.3, B Article II, Section 2.2.1, B.2.e, f & q Article II, Section 2.2.3, B Article II, Section 2.3.3, B Article II, Section 2.4.3, B; 2.4.4, B.2 Article II, Section 2.5.2, B Article II, Section 2.6.3, B Article IV, Section 7.3.1 Article VI, Section 2.27
Wildlife Reservation	Article II, Section 2.1.1, D
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<b>Yards</b>	Article II, Section 1.2; 1.3; 1.4; 1.5; 1.8 Article II, Section 2.1.4 Article II, Section 2.2.4 Article II, Section 2.3.4 Article II, Section 2.4.1, O.2.f Article II, Section 2.4.4 Article II, Section 2.5.3 Article II, Section 2.6.4 Article III, Section 2.3 Article III, Section 2.5.6 Article IV, Section 3.1; 3.2 Article IV, Section 5 Article IV, Section 8.1.1 Article IV, Section 12 Article IV, Section 2.7
<i>Front</i>	Article II, Section 1.2; 1.3; 1.8 Article II, Section 2.1.4, A Article II, Section 2.2.4, A Article II, Section 2.3.4, A.1 & B.1 Article II, Section 2.4.1, O.2.f Article II, Section 2.4.4, A Article II, Section 2.5.3, A Article II, Section 2.6.4, A Article III, Section 2.5.6

Article IV, Section 3.1  
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*Side* Article II, Section 1.2; 1.3; 1.8  
Article II, Section 2.1.4, B  
Article II, Section 2.2.4, B  
Article II, Section 2.3.4, A.2 & B.2  
Article II, Section 2.4.1, O.2.f  
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Article II, Section 2.5.3, B  
Article II, Section 2.6.4, B  
Article III, Section 2.5.6  
Article IV, Section 3.1; 3.2  
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*Rear* Article II, Section 1.2; 1.3; 1.8  
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Article II, Section 2.2.4, C  
Article II, Section 2.3.4, A.3 & B.3  
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Article II, Section 2.4.4, C  
Article II, Section 2.5.3, C  
Article II, Section 2.6.4, C  
Article IV, Section 3.2  
Article IV, Section 5.3  
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*Required* Article II, Section 1.2; 1.3; 1.4; 1.5; 1.8  
Article II, Section 2.1.4  
Article II, Section 2.2.4  
Article II, Section 2.3.4

## Z

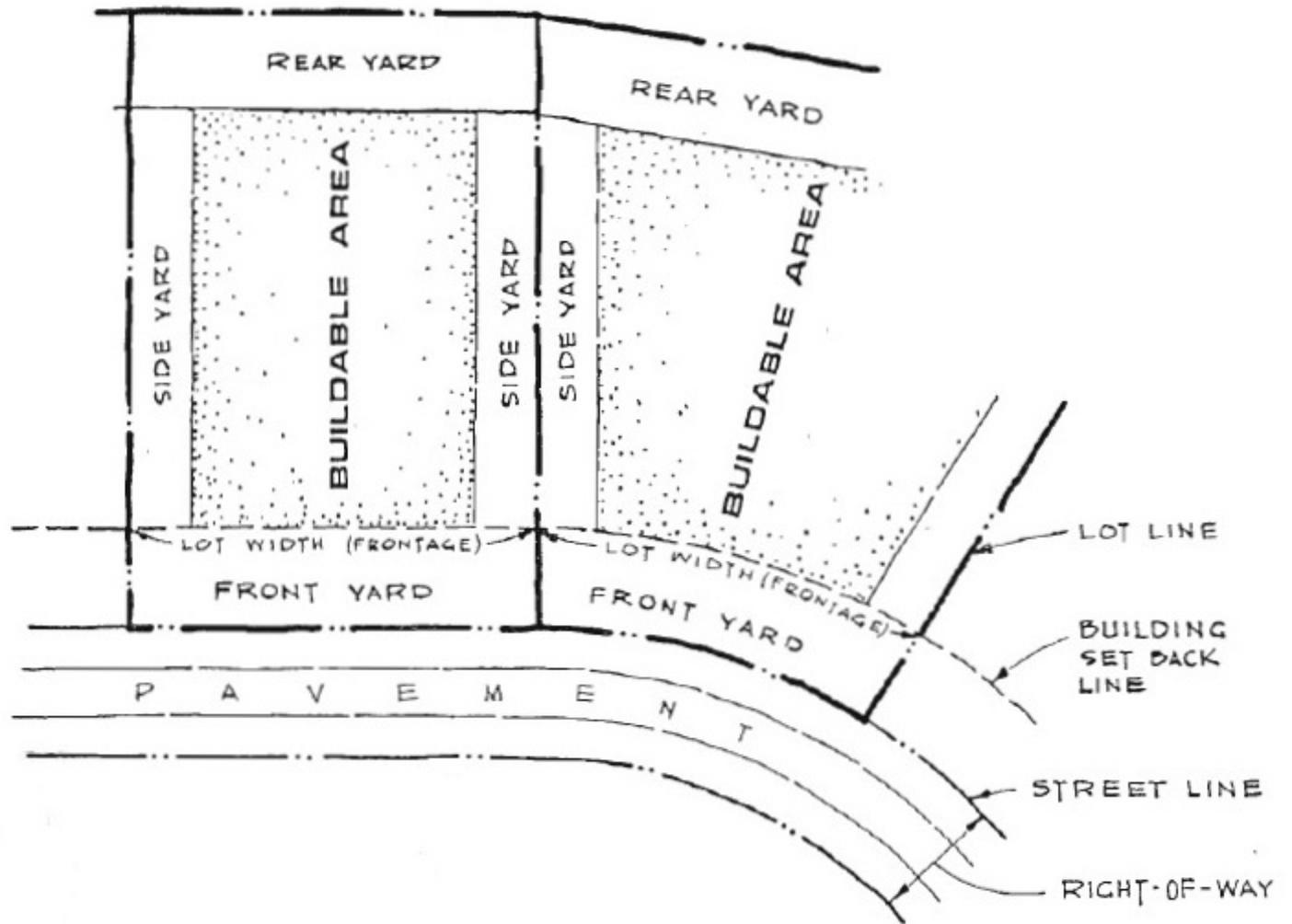
*Zoning* Article I, Section 4.1  
Article III, Section 1.1; 1.2  
Article III, Section 1.3.7  
Article III, Section 1.4.5  
Article III, Section 2.1  
Article III, Section 2.2.1  
Article III, Section 3.2

Zoning (cont.)	Article IV, Section 12 Article V, Section 6.2.1, A; 6.2.2 Article V, Section 6.5.1
Zoning Officer	Article II, Section 2.2.1, B.2.h Article III, Section 2.5.4; 2.5.5 Article IV, Section 6.2 Article IV, Section 6.3.6; 6.4.1; 6.4.2; 6.4.3; 6.5.1 Article IV, Section 7.4; 9.1 Article IV, Section 12.4.2, B; 12.5 Article V, Section 1; 2 Article V, Section 4.1.2; 6.1; 6.2; 6.4.2
Zoning Map	See <b>MAP</b>

**Illustrations in Appendix:** Yard Requirements  
Building Height Requirements  
Typical Parking Lot Layout  
Zoning Map

## Appendix – Yard Requirements

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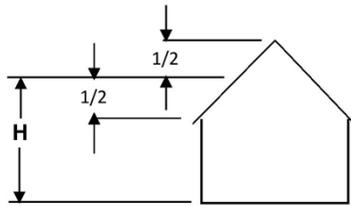


# Appendix – Building Height Requirements

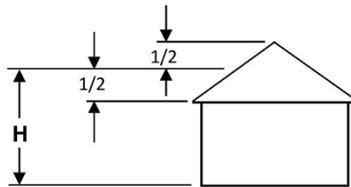
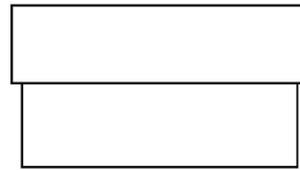
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## **Building Height Requirements for Town of Bennington**

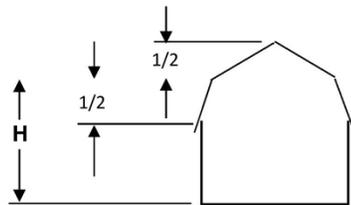
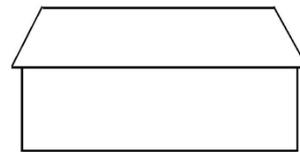
When measured from ground to height (H) on these examples, a house may be a maximum of 30 feet (not including chimneys) & a garage may be a maximum of 18 feet



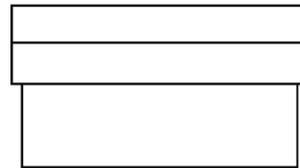
GABLE



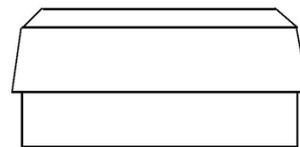
HIP



GAMBREL



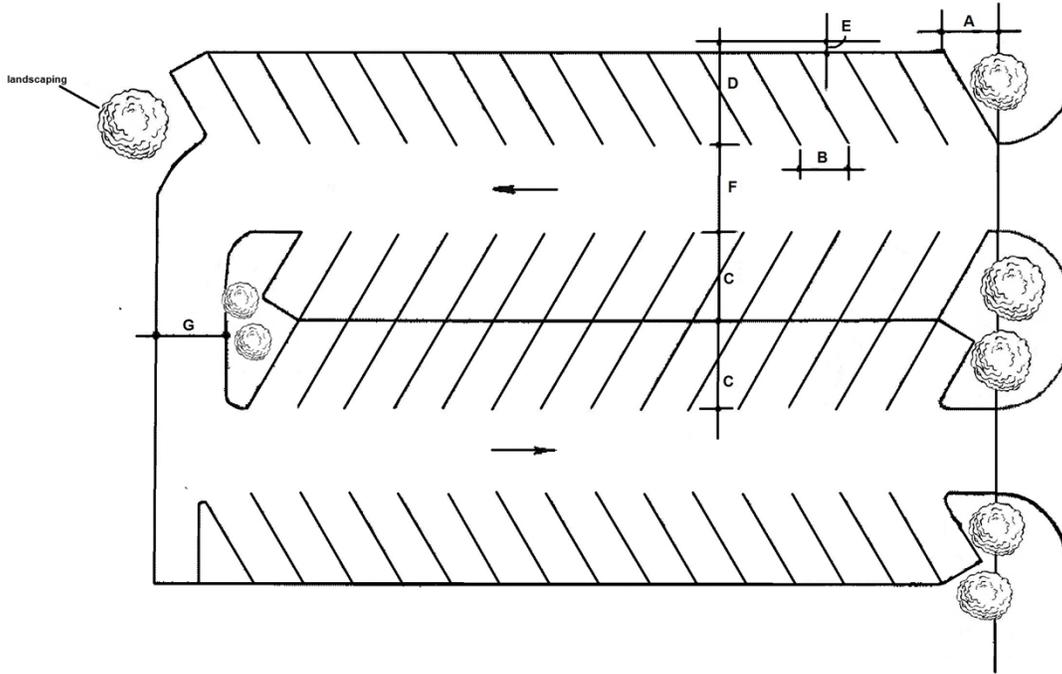
MANSARD



**BUILDING HEIGHT:** Is the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of Mansard roofs; and to the average height between eaves and ridge for Gable, Hip and Gambrel roofs.

See Local Law #4-2010

# Appendix – Typical Parking Lot Layout



## typical parking lot layout

		Angle of Parking Stall				
		45°	50°	55°	60°	90°
Offset	A	18'	16"	13.5'	11'	1.5'
Car Space	B	12'	11.5'	11'	10'	9'
Stall Depth	C	16'	17"	17.5'	18'	18.5"
Stall Depth	D	18'	18.5'	19'	19'	19'
Overhand	E	2'	2'	2'	2'	3'
Driveway	F	13'	14.5'	16'	17.5'	25'
Turnaround	G	17'	16"	15'	14'	14'
		used in diagram				

Source: The Community Builders Handbook,  
Urban Land Institute



# Appendix – Zoning Map

