CHAPTER 150
ZONING

(History: Adopted by the Town Board of the Town of Henderson 11-13-1991 by L.L. No. 3-1991, Amended 9-24-2014, Amended, R 2019-12-17-079, 12-19-2019.)

GENERAL REFERENCES

Unsafe buildings - See Chapter 76
Fair housing - See Chapter 82
Fire prevention and building construction - See Chapter 90
Flood damage prevention - See Chapter 94
Junk, junkyards and junk automobiles - See Chapter 103
Subdivision of Land - See Chapter 135
Small Wind Energy Tower Systems – See Chapter 150-51
Solar Energy Systems- See Chapter 150-60

ARTICLE I
§ 150-1. Purpose and authority
§ 150-2. Short title
§ 150-3. Amendments
§ 150-4. Coordination/review of actions
§ 150-5. Interpretation

ARTICLE II
§ 150-6. Word usage; definitions

ARTICLE III
§ 150-7. Zoning Districts.
§ 150-8. Zoning Map Certification
§ 150-9. Interpretation

ARTICLE IV
§ 150-10 General Requirements
§ 150-11. Planned Development District
§ 150-12. Nonconforming uses, lots and structures
§ 150-13. Nonconforming lots of record

Article V
§ 150-14. Enforcement Officer
§ 150-15. Application of requirements and zoning permit
§ 150-17. Planning Board
§ 150-18. Zoning Board of Appeals
§ 150-19. Penalties for offenses
§ 150-20. Special use permits

ARTICLE VI Supplemental Requirements
§ 150-21. Applicability
§ 150-22. Number of principal uses per lot
§ 150-23. Signs
§ 150-24. Swimming Pools
§ 150-25. Fences, walls and hedges.
§ 150-26. Sewage disposal systems
§ 150-27. Parking Requirements
§ 150-28. Off-street loading
§ 150-29. Home occupations
§ 150-30. Road and road access
§ 150-31. Drainage, soil erosion and sedimentation control
§ 150-32. Drainage systems
§ 150-33. Well and septic tank covers
§ 150-34. Recreational vehicles
§ 150-34.1 Manufactured Homes - 58 -

ARTICLE VII Site Plan Review
§ 150-35. Purpose
§ 150-36. Applicability and authorization
§ 150-37. Procedure
§ 150-38. Information to be submitted by applicant
§ 150-39. General performance site plan review criteria
§ 150-40. Guaranties for installation and maintenance
§ 150-41. Specific site plan review criteria

ARTICLE VIII TELECOMMUNICATION FACILITIES
§ 150-42. Purpose and Intent
§ 150-43. Applicability
§ 150-44. Review Authority

§ 150-45 . Site Location Priorities
§ 150-46 . Special Permit Review Criteria for Telecommunication Facilities
§ 150-47. Specific Application Materials and Support Documentation for Telecommunication Facilities
§ 150-48. Shared Use of Existing Tall Structures Preferred.
§ 150-49. New Towers.
§ 150-50. Supplemental Regulations Telecommunication Facility

ARTICLE IX SMALL WIND ENERGY CONVERSION TOWER SYSTEM (SWETS) AND WIND TOWER REGULATIONS
§ 150-51. Purpose and Authority
§ 150-52. Permits Required
§ 150-53. Definitions specifically pertaining to SWETS
§ 150-54. Standards for SWETS
§ 150-55. Additional Standards
§ 150-56. Application
§ 150-57. Procedure
§ 150-58. Penalties

ARTICLE X PLANNED DEVELOPMENT DISTRICT (PDD). Association Island Planned Development District
§ 150-59. Zoning Description.

ARTICLE XI SOLAR ENERGY SYSTEMS REGULATIONS
§ 150-60. Purpose and Authority
§ 150-61. Definitions Specific To Solar Energy Systems
§ 150-62. Permits Required.
§ 150-63. Additional Standards.
§ 150-64. Appeals
§ 150-65. Procedure.
§ 150-66. Application.
§ 150-67. Penalties

EXHIBIT A

EXHIBIT B

SCHEDULE I - District Lot, Setback and Height Requirements

SCHEDULE II – Permitted Principal, Permitted Accessory & Special Uses

SCHEDULE III – Parking Standards

SCHEDULE IV - Additional Screening Requirements Within the Corridor Overlay Zone - 97-

TOWN OF HENDERSON ZONING LAW
JEFFERSON COUNTY, NEW YORK

ARTICLE I

Introductory Provisions

§ 150-1. Purpose and authority

This chapter is established for the purpose of promoting the public health, safety and welfare, and the most desirable use for which the land in the town may be adopted; for conserving the value of buildings and for enhancing the value of land throughout the town, pursuant to the authority conferred by Article 16 of the Town Law and Section 10 of the Municipal Home Rule Law and the Comprehensive Land Use Plan of the Town of Henderson. Reasonable consideration is given to the best planned use of each district and its peculiar suitability for particular uses. Respective municipal boards will consider proposals based on the merits of each application and the circumstances, therefore decisions should not be considered precedent setting.

§ 150-2. Short title

This chapter shall be known and may be cited as "The Town of Henderson Zoning Law," and may be referred to as “the Law” or “this Law” throughout this Chapter.

§ 150-3. Amendments

A. The Town Board may from time to time on its own motion or on petition, amend, supplement, or repeal the regulations and provisions of this law after appropriate public notice and hearing, as required by Law.

B. The Town Board may refer any proposed amendments to the Planning Board for their review and recommendation. Said recommendation shall not be binding on the Town Board to adopt or reject such recommended amendments. The failure to receive a recommendation within a reasonable period of time shall not deprive the Town Board of the power to adopt or reject such proposed amendment.

§ 150-4. Coordination/review of actions

A. The Town Board, Planning Board or Zoning Board of Appeals shall refer all amendments, site plans, special permits, and variances that fall within those areas specified under General Municipal Law, Article 12-B, Section 239 to the County Planning Board prior to the Board's vote thereon.

B. The Town Board, Planning Board and Zoning Board of Appeals shall comply with the requirements of the New York State Environmental Quality Review Act (SEQR) for all amendments, site plans, variances and other "actions" as defined by SEQR.

§ 150-5. Interpretation.

A. Interpretation and application of the provisions of this Law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of the Law differ with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the most demanding standards shall govern.

ARTICLE II

Terminology

§ 150-6. Word usage; definitions.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. When used in this chapter, words in the present tense include the future, and words of one gender include all genders. The term "shall" is intended to be mandatory. Whenever a word or term is defined to "include" certain items or matters, such inclusion is intended to be by way of specification, not of limitation.

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

ABANDONED: property that is vacant and under a current note of default or notice of sale; subject of a foreclosure sale; or transferred under deed in lieu of foreclosure.

ABANDONMENT: the relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ACCESSORY STRUCTURE: A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE: a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ADMINISTRATIVE EXPENSES: All actual expenses and liabilities incurred by the town or any of its officers or agencies in processing and reviewing applications or appeals hereunder and ensuring compliance with this chapter and all other applicable laws or regulations, including but not limited to engineering fees and disbursements, legal fees and disbursements, publication expenses, actual charges of the Enforcement Officer, administrative expenses and any other actual expenditures incurred or accrued by the town.

ADULT USE-The use of an establishment consisting of, including, or having the characteristics of any or all of the following:

ADULT BOOKSTORE, NEWSSTAND, VIDEO STORE OR COMBINATION: An establishment used for the sale or rental of books, magazines, periodical publications, tapes, films or other viewing media that is distinguished or characterized by the emphasis on sexually oriented material depicting, describing or relating to sexual activities or anatomical genital areas.

SEX SHOP: Any establishment offering, for sale or rent, items from any two of the following categories: sexually oriented books, magazines and videos; leather goods marketed or presented in a context to suggest their use for sexual activities; sexually oriented toys and novelties; video viewing booths; or an establishment that advertises or holds itself out in any forum as a sexually oriented business.

VIDEO VIEWING BOOTHS: Often referred to as peep shows and characterized by small booths rented to individuals to view sexually explicit films or tapes.

ADULT MOTION PICTURE THEATER: A building used for presenting films distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

ADULT CABARET: An establishment, either with or without a liquor license, offering sexually oriented live entertainment, which may include topless and go-go dancers, strippers, or male or female impersonators.

ADVERSE IMPACT: A condition that creates, imposes, aggravates or leads to inadequate, impractical, unsafe or unhealthy conditions on a site proposed for development or on off-tract property or facilities. Among other things it could relate to circulation, drainage, erosion, potable water, sewage collection and treatment. It may also relate to noise, traffic, visual impacts, lighting and glare, aesthetics, quality of life and impact on the environment.

AGRICULTURAL STRUCTURE: A structure that is used in association with agricultural production including shelter for livestock, crop storage, manure storage, machinery, supplies and implements.

AGRICULTURAL USE: refer to the farm operation definition.

ALTER/ALTERATION: To change or rearrange any exterior structural part of the existing facilities of a building or structure, whether principal or accessory, by enlarging the building or structure, whether by extending any side or increasing the height thereof, or to move the same from one location or position to another. A change in use of the land, building (principal or accessory) or a structure (principal or accessory) shall be deemed to be an alteration.

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

AMBIENT NOISE: Any continual or intermittent sound rated at or above 40 - 45dBA.

ANIMAL UNIT: A standard unit of measurement of the impact of keeping domestic animals on a property. Keeping of one set of the following animals comprises one animal unit: 1 horse, 1 pony, 1 llama, 1 mule, 1 cow, 2 hogs, 4 sheep, 4 goats, 25 poultry, 25 rabbits or an equivalent combination

thereof.

AUTOMOBILE SERVICE STATIONS: Any lot or building or portion thereof used or occupied for the sale or supply of gasoline or motor vehicle fuels, oils or lubricants, or for the polishing, greasing, washing and routine service and maintenance of motor vehicles.

BACKGROUND NOISE: The "lull" in the ambient noise environment. Intermittent noise events such as aircraft flying over, dogs barking, mobile farm machinery and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background noise unless they were present for at least 90% of the time.

BED & BREAKFAST: A private dwelling, structure, or part thereof in which lodging is provided to nine or less transient occupants for profit by the owner or operator, which may or may not provide in-house food service to its customers.

BERM: A mound of earth or the act of pushing the earth into a mound. Berms are typically used to shield, screen, and buffer undesirable views and to separate incompatible land uses. They can also provide visual interest, decrease noise, control the direction of water flow and act as dams.

BIG BOX RETAIL: Retail sales with floor areas over 25,000 square feet.

BILLBOARD: A temporary or permanent commercial sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered for sale at a location other than the premises on which the sign is located larger than 32 square feet.

BOARD OF APPEALS: See definition for Zoning Board of Appeals

BOATHOUSE: A covered structure used to store motorized or unmotorized marine craft ~~boats~~ and located wholly or partly in the waterway abutting waterfront property.

BUFFER STRIP: Open spaces, landscaped areas, fences, berms or any combination thereof used to physically separate or screen one use or property from another so as to shield or block noise, views, lights or other nuisances. Criteria considered for properly placed buffers are the width of the buffer and the type of material to be planted or installed relative to its surroundings and adjoining parcels so as to avoid an adverse impact.

BUILDING: Any structure having a roof supported by columns or by walls which is used or occupied for the shelter or enclosure of animals, persons, or property. Unless specified, the term includes both principal and accessory buildings.

BUILDING AREA: The total internal square footage or area, taken on a horizontal plane projected to main grade level, occupied or to be occupied by the principal building and all accessory buildings.

BUILDING COVERAGE: The sum of the areas of the outside dimensions of all buildings, excluding uncovered decks, divided by the total area of the lot. It shall be expressed as a ratio in percentage.

BUILDING HEIGHT: The vertical distance measured from the average grade level to the highest

point of the roof.

BUILDING INSPECTOR: The person or agency designated by the Town Board as the issuer of building permits and certificates of occupancy under the provisions of the New York State Uniform Fire Prevention & Building Code.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A combination of photovoltaic building components integrated into any building envelop system such as vertical facades including glass and other face material, semi-transparent skylight systems, roofing materials, and shading over windows. **(Amended, R 2019-12-17-079, 12-19-2019)**

BUILDING LINE: A line parallel to the nearest lot line, which passes through the point of the face of the building or of the attached part of the building nearest the lot line. This nearest point shall not be measured from such structures as chimneys, steps, open areaways, roof overhangs, cornices, eaves and other similar protrusions unless such protrusions exceed two feet.

BUILDING PERMIT: A permit issued by the Jefferson County Code Office authorizing the alteration, construction, removal, or demolition of any building or structure.

BULKHEAD: See Retaining Wall.

CAMPGROUND: Any lot used or occupied by more than one tent, cottage, cabin, recreational vehicle, or manufactured home, or any combination of such structures, which are used for part-time living or sleeping purposes, publicly or privately operated excluding manufactured home parks and hotels/motels.

CEMETERY: Property used for the interring of the dead.

CERTIFICATE OF COMPLIANCE: A written certification, issued by the Enforcement Officer, indicating that, following examination, the structures, uses and lot upon which the structure is located are in compliance with the provisions of this chapter.

CERTIFICATE OF OCCUPANCY: A written certification, issued by the Building Inspector, indicating that, following examination, the buildings and structures are in compliance with the provisions of the New York State Uniform Fire Prevention & Building Code.

CHARACTER: Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its interest, individuality and/or quality of life.

CHURCH: a building or structure, or groups of buildings or structures, that by design and construction is primarily intended for conducting organized religious services and associated accessory uses. Places of worship may also include accessory schools, kitchens, meeting halls, recreational facilities, counseling, and day-care facilities.

CHILD DAY CARE FACILITY - A State licensed facility which provides non-medical care, protection, and supervision to more than 5 children under 18 years of age, on a less than 24-hour basis. A commercial or non-profit child day care facility includes infant centers, preschools, sick-child centers,

and school-age day care facilities. These may be operated in conjunction with business, school, or church facilities, or as an independent land use.

COLLECTIVE SOLAR: Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

COMMERCIAL/SERVICES: A commercial activity characterized by the direct on-premise sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing, and servicing and preparation customarily associated therewith and generally involving either stock in trade such as are normally associated with department stores, food markets and similar establishments, or services such as barbers, hairdressers, shoe repair, laundry, or similar uses.

COMMERCIAL, SMALL: A retail or service establishment consisting of not more than 1,500 square feet of floor area and which is compatible with its surroundings. Such establishments shall include small grocery stores, bait shops, gift shops and similar operations. Small Commercial shall not include large product retail such as automobiles, trucks, boats, recreational vehicles, farm implements, building supplies or equipment, trees or shrubs or the auction of livestock or other goods. Small commercial shall also exclude rummage sales, fairs, and special events.

COMPATIBLE DESIGN: The visual relationship between adjacent and nearby buildings and the immediate streetscape, in terms of consistency of materials, colors, building elements, building mass and other constructed elements of the urban environment, such that abrupt or severe differences in each of the aforementioned attributes are avoided.

COMPATIBLE LAND USE: Use of land and/or building(s) that, in terms of development intensity, building coverage, design, bulk and occupancy, traffic generation, parking requirements, access and circulation, site improvements and public facilities and service demands, is consistent with and similar to neighboring uses and does not adversely affect the quality of life of persons in surrounding or nearby buildings.

COMPLETED APPLICATION: An application which the entity which has final approval has determined to contain all materials required for an adequate review of the proposed activity.

CONTOUR MAP: A map illustrating the ground form, with contour lines that indicate the elevations of the land, in intervals that collectively indicate the slope of the land.

CONVENIENCE STORE: A retail establishment or building of up to 5,000 square feet of floor area selling primarily food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption.

COOKING FACILITIES: Facilities required for the preparation and storage of food including as a minimum a range, sink, refrigerator and either oven or microwave oven.

CORRIDOR OVERLAY ZONE: A district that encompasses one or more underlying zoning districts and that imposes additional requirements above such required by the underlying district within the boundaries of said Overlay Zone as set forth on the Corridor Overlay District Map.

CUT-OFF LIGHT: A lamp or source of illumination with elements such as a shield, reflector or refractor panels that direct and cut off the light at a cutoff angle of less than 90 degrees.

DECK: Any porous, elevated platform not covered by a permanent roof.

DEVELOPED: see the definition for Improved Lot.

DIGITAL\LED SIGN: A non-static sign employing actual motion or the illusion of motion by artificial means. Such signs constitute a broad category of which are differentiated from manually changeable or blinking signs as defined and regulated by these regulations. Digital signs include the following types: electronic display screens, message display or message centers.

DOCK: A platform extending into a waterway. For the purposes of this chapter, the term shall include dock, pier, wharf, and jetty.

DOMESTIC ANIMAL: Any animal or animal unit that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter, excluding common household pets.

DRIVEWAY: A private paved, gravel, hard packed, or designated pathway that provides the principal means of vehicular access from a public right-of-way to a property.

DRIVE-THROUGH BUSINESS: Banking institutions with drive up teller/ATM access, pharmacies, or fast food restaurants with drive-up ordering boards and windows for vehicle based food pick-up.

DUMPSTER: A container designed and used for the temporary storage of rubbish, waste, refuse, garbage, construction debris or materials to be recycled or disposed of pending collection, having a capacity of at least one cubic yard. For the purpose of this zoning law, a dumpster shall be treated as an accessory use where the dumpster is serving as the primary means of disposal for a primary use.

DWELLING: A building, or portion thereof, used or occupied as living quarters. The term includes modular homes, and manufactured homes but does not include guest accommodations, transient accommodations, trailers or recreational vehicles, half-way houses, convalescent homes or nursing homes.

DWELLING UNIT: That portion of a dwelling physically designated for the exclusive use of a single family as complete living quarters, including cooking, sanitary, living and sleeping facilities.

(1) DWELLING, SINGLE-FAMILY: A detached building containing one dwelling unit. For the purposes of the Schedule of Uses: Permitted Principal, Permitted Accessory and Special Use, manufactured homes and RV's shall not be considered to be single family dwellings. **(Amended 12-30-1991 by L.L No. 4-1991).**

(2) DWELLING, TWO-FAMILY: A detached building containing two dwelling units.

(3) MULTIPLE-FAMILY: A building designed to contain three or more dwelling units.

(4) MULTIPLE UNITS: Two or more dwellings located on a single lot, regardless of whether the lot and/or the dwellings are owned by the same or different persons or

corporate entities.

ENFORCEMENT OFFICER (EO): The Enforcement Officer is the person appointed by the Town Board to carry out the requirements of this chapter, or his duly appointed assistant.

ERECT: To construct, build, or re-erect, reconstruct, rebuild or excavate for a building or structure.

FAMILY: One or more persons living together as a single housekeeping unit.

FARM OPERATION: the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, and timber operation, and compost, mulch or other biomass crops and commercial equine operation as defined by NYS Ag and Markets Law (AML §305-a). Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FARM STAND/ PRODUCE SALES: Permanent or semi-permanent/seasonal set-up for on-site sale of produce grown on the property and local crafts. **(Amended, R 2019-12-17-079, 12-19-2019)**

FARM WINERY: a farm operation for the growing of grapes and the preparation, processing, marketing and distribution of wine in addition to all uses that are allowed by the Farm Winery Act of 1976.

FENCE: A structure of wood, stone or other materials intended for defense, security, screening, partitioning, or enclosure. The side of the fence facing away from the fence owner's property shall have a finished quality.

FLEA MARKET: A market held at regular, periodic, or occasional intervals where new, used, and hand-made items, food, and antiques are sold by multiple vendors.

FLEA MARKET - TEMPORARY: A one-time, (less than 2 week time period) market where new, used, and hand-made items, food, and antiques are sold by multiple vendors.

FLOOD DAMAGE PREVENTION LAW: Chapter 94 of the Code of the Town of Henderson #94-10 entitled Flood Damage Prevention, as adopted by Local Law No. 3-1994.

FLOOR AREA/FLOOR SPACE: The total horizontal area of all floors of a building bounded by the faces of the interior walls, excluding unoccupied cellars and attics, corridors, restrooms, stairways, or maintenance rooms.

FLUSH-MOUNTED SOLAR PANEL: Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

FUEL: Any lubricating or combustible substance subject to NYS or Federal regulations as to

transport, storage or disposal.

FUEL STORAGE AND SUPPLY: Any lot, building or portion thereof used or occupied for the commercial sale, distribution and/or storage of fuels and/or petroleum products.

GARAGE: A covered and enclosed structure used primarily to park motor vehicles and other items such as, but not limited to, snowmobiles, ATVs, and boats. The maximum footprint of the structure shall not exceed 1,200 square feet.

GASOLINE SERVICE STATION: See definition for Automobile Service Station.

GUEST ACCOMMODATION: A building, or portion thereof, separate from the principal dwelling and used or occupied as temporary living quarters without separate cooking facilities. When such a use is only a portion of the building, the building shall be designated a guest accommodation. In particular, but not exclusively, a structure with living quarters above a garage, shall be designated a guest accommodation, not a garage.

HAZARDOUS MATERIALS: Any substances, chemical wastes, or radioactive materials that could cause serious injury or disease during the storage, collection and disposal cycle, including but not limited to explosives, inflammables, poisons, solvents, acids, and dangerous chemicals or combination of chemicals.

HEDGE: A barrier of natural plantings such as shrubs and trees (not including shade trees).

HISTORIC SITE: Any location or structure designated by the US Department of the Interior National Park Service as a National Historic Landmark or placed on the National Register of HISTORIC PLACES: Any location designated by the New York State Office of Parks, Recreation and Historic Preservation as an historic site, heritage area, heritage trail or scenic by-way.

HOME OCCUPATION: An accessory use of a service character customarily conducted within a dwelling or accessory structure by the resident of the premises which is clearly secondary to the use of the premises for living purposes and does not substantially change the character thereof or have any exterior evidence of such use other than an allowable sign and required parking as provided in this chapter. The Home Occupation shall not exceed 1,500 square feet of floor area, and if visible shall be compatible with surrounding structures in scale, mass, and character.

HOTEL/MOTEL: A facility offering transient lodging accommodations to the general public, excluding bed-and-breakfast facilities.

HYDROFRACKING OR HYDRAULIC FACTURING OPERATION:
Is the fracturing of various rock layers by a pressurized liquid, used to release petroleum, natural gas (including shade gas), tight gas, and coal steam gas). For the purposes of this code, hydrofracking for water wells is exempt.

INSTITUTIONAL USES: A nonprofit or quasi-public use such as a church, library, public, or private school, hospital, museum, performing arts center or municipally owned or operated building, structure or land used for public purposes. **(Amended 2-12-1997 by LL #1-1997)**

IMPERVIOUS SURFACE: Any surface or material that does not readily absorb water and impedes the natural infiltration of water into the soil. Common examples of impervious surfaces include, but are not limited to, roofs, driveways (regardless of the surface material), parking areas (regardless of the surface material), sidewalks, patios, tennis courts, concrete or asphalt streets.

IMPROVED LOT: A parcel or lot with a building or permanent structure that becomes part of, placed upon, or is affixed to real estate.

JUNKYARD: Any lot, land or structure, or part thereof, used for the collecting, storage and\or sale of waste paper, rags, scrap metal or other scrap or discarded material; or for the collection, dismantling, or storage of more than two inoperative machines, more than two inoperative and/or unregistered motor vehicles, more than two inoperative and\or unregistered boats, or boat trailers or for the sale of parts thereof.

KEEPING OF DOMESTIC ANIMALS: Noncommercial feeding and/or sheltering of domestic animals on the premises of a lot.

KENNEL: A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, for a fee or compensation.

LANDSCAPING: Lawns, trees, plants and other natural materials such as rocks and wood chips, and decorative features including but not limited to sculpture, patterned walks, fountains, pools, and ponds.

LANDSCAPE PLAN: A component of a development plan that includes proposed landscape species (such as number, spacing, size at time of planting and planting details), proposed protection of existing vegetation during and after construction, proposed decorative features, buffers and screening devices, and any grade changes.

LIGHT INDUSTRIAL USES: The manufacture and/or assembly of small products for wholesale or retail sale, such as small machine parts or small electronic equipment provided that such use does not produce high volumes of noise, air pollution, or traffic, and is compatible with the surrounding neighborhood.

LOT: A circumscribed area of land which is described by a deed or depicted or filed on a subdivision plat, either of which has been legally and duly recorded or filed in the Jefferson County Clerk's office. When a single such deed describes two or more contiguous lots, the entirety of such lots may be considered a single lot for purposes of this Chapter.

LOT, CORNER: A lot at the junction of and fronting on two or more streets intersecting at an interior angle of less than 135 degrees.

LOT COVERAGE: The sum of the areas of all impervious-to-water structures including but not limited to: buildings, blacktop; concrete steps, stairs, walks, dumpsters, pools, fuel tanks, water tanks, tents, excluding seawalls and boat ramps, on a lot. Each area measured from the external dimensions of the structures and surfaces, divided by the total area of that lot.

LOT DEPTH: The distance between the front and rear lot lines.

LOT, FLAG: A large lot not meeting minimum road frontage requirements of its zoning district and

where access to the public road is by a narrow, private right-of-way or driveway.

LOT LINE: Any line dividing one lot from another or from a road right-of-way or from the mean high water level elevation of waterfront property.

(1) LOT LINE, FRONT: The lot line adjoining any street/highway right-of-way line or any waterway subject to the following criteria:

(a) If a lot adjoins two or more streets, highways, or waterways one and only one such line shall be designated to be the front lot line.

(b) In the case of waterfront property, the waterfront property line as determined by the mean high water line shall be the front lot line. However, if less than half of the lot area lies between the mean high water line and a public road right-of-way, then the front lot line shall be considered to be the public road right-of-way and the lot considered a non-waterfront lot.

(c) In open development areas, the lot line nearest the easement or right of way providing access to the lot shall be the front lot line, provided the lot is not waterfront property

(d) In the case of a lot whose frontage on the street is less than the required district lot width, the measured width at the front building line could be used to establish an adequate dimension

(e) In the event that a lot or parcel is bisected by a public right-of-way, such as but not limited to a road, street, or waterway, the bisected lot or parcel shall be treated as two lots or parcels with setbacks measured from each parcel to ensure appropriate setbacks are met from roads and waterways.

(2) LOT LINE, REAR: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

(3) LOT LINE, SIDE: Any lot line other than the front or rear lot lines.

LOT OF RECORD: A lot described in a deed or depicted on a subdivision plat that was legally and duly recorded in the Jefferson County Clerk's Office prior to August 7, 1975.

LOT WIDTH: The distance measured at the front building line, between the intersections of the front building line and the side lot lines.

MANUFACTURED HOME, DOUBLE WIDE: Manufactured housing meeting the requirements defined under manufactured home, consisting of two halves which are transported to the site separately and are joined together on site. A double-wide home shall be considered to be a modular home for the purpose of this chapter. **(Amended 6-14-1995 by LL #7-1995, Amended, R 2019-12-17-079, 12-19-2019)**

MANUFACTURED HOME, SINGLEWIDE: Manufactured housing built on a chassis, factory designed to be less than 18 feet in width. A manufactured home shall be construed to remain a

manufactured home, subject to all requirements applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Units shall meet the minimum standards established by HUD. A manufactured home, singlewide shall not be construed to be a recreational vehicle or a park model recreational vehicle. (**Amended, R 2019-12-17-079, 12-19-2019)**

MANUFACTURED HOME PARK: A lot other than a legal campground on which two or more manufactured homes are located and which are designed, intended or actually used or occupied for living or dwelling purposes.

MANUFACTURED HOUSING: A dwelling that has been certified as a manufactured home by the applicable United States Government Agency. The structure must comply with the National Mobile Home Construction and Safety Standards Act of 1974. (**Amended, R 2019-12-17-079, 12-19-2019)**

MARINA- COMMERCIAL: A lot, building or structure located on or adjacent to the shoreline that includes any components of Marina – Small, plus it may offer boat sales and dry storage, full scale repairs and maintenance including washing, painting and refurbishing of marine vehicles and sewer pump out. Marina - Commercial may also include shower and laundry facilities, full service fueling facilities and commercial and charter fishing services, overnight dockage of charters and sleeping or living on your boat.

MARINA- SMALL: A lot, building, dock or structure located on or adjacent to the shoreline which provides docking or secure mooring facilities for pleasure craft and small boats. Marina-Small may include a parking area for vehicles and boat trailers, a boat launch/ramp, common use dockage for short term docking, boat rentals, restrooms. Small scale marinas also permit up to 1,200 square feet of retail sales. Small scale marinas are limited to 10 slips, or 10 moorings, or 200 feet of shoreline frontage, whichever is less.

MEAN HIGH WATER: the approximate average high water level for a given body of water at a given location that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use, by the following: available hydrologic data, calculations, and other relevant information concerning water levels - Mean high water elevations are established, using this method, for certain waterbodies as defined in Part 608 NYS DEC Use and Protection of Waters, Section 608.11.

MEAT PROCESSING: A service consisting of the cutting up, curing, and processing of meat, to include on-site butchering, but not the killing or slaughtering of live animals. Such facilities would operate with a license from the NYS Dept of Ag and Markets, Article 20-C.

MINING OPERATION: See Quarry, Sand, or Gravel Pit.

MIXED-USE DEVELOPMENT: A development that contains nonresidential and residential uses that are arranged either horizontally and/or vertically within a development's area. (**Amended, R 2019- 12-17-079, 12-19-2019)**

MODIFICATION: Any change or alteration that was not on the site plan at time of approval. This does not include maintenance and/or the replacement of parts unless such replacements differ or are altered from the original plan.

MODULAR HOME: A factory manufactured home designed primarily for residential occupancy, which is wholly or in substantial part manufactured in facilities located off the building site for installation or assembly upon a permanent and continuous foundation wall or slab on the building lot. (**Added 6-14-1995 by LL #7-1995)**

MOTOR VEHICLE: As defined in the Vehicle and Traffic Law of the State of New York.

MOTOR VEHICLE REPAIR SHOP: A facility licensed by the New York State Department of Transportation as a Motor Vehicle Repair Shop.

NET-METERING: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

NOISE: Any loud, discordant or disagreeable sound or sounds. More commonly, in an environmental context, noise is defined simply as unwanted sound. Sound generated by projects may become noise due to land use if there are receptors surrounding them. When lands adjoining a proposed facility contain residential, commercial, institutional or recreational uses that are near a proposal, noise is likely to be a matter of concern to residents or users of adjacent lands.

NONCONFORMING USE, LOT OR STRUCTURE: A use or lot or structure, legally and substantially existing at the effective date of this chapter, which does not conform to the requirements of this chapter for the zoning district in which the lot is situated. (**Amended 6-14-1995 by LL #7-1995)**

NURSING HOME: A dwelling where persons are lodged and furnished with meals and nursing care for commercial or non-profit purposes. This shall not include homes for the mentally handicapped, drug or alcohol rehabilitation patients, etc.

OFF-PREMISE SIGN: Any sign or other object used to advertise goods or services not available on the property on which the advertisement is located.

OFF-STREET PARKING: A space or areas for parking off the public streets and commonways such as sidewalks.

PARCEL: The area of land shown and depicted as a single tax parcel on the current Jefferson County Real Property Tax Maps.

PARKING LOT: Four or more parking spaces, on the same lot, for registered vehicles.

PARKING SPACE: An off-street parking space available for one motor vehicle which is at least ten feet wide and twenty feet long, exclusive of sidewalks, curb cuts and/or street access.

PATIO: A level, landscaped and\or surfaced area, on grade and not covered by a permanent roof.

PEDESTRIAN WALKWAY: A right-of-way for pedestrians, separate from vehicular traffic, including sidewalks, trails, access ramps, stairs, mechanical lifts, and routes through buildings and other areas that are available for public use.

PERMIT GRANTING AUTHORITY: The authority charged with granting permits for the operation of solar energy systems within this law.

PERMITTED USE: Any principal or accessory use allowed as a right without special consideration under the provisions for the zoning district in which the lot or parcel, building or structure is located.

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

PLANNING BOARD: The Planning Board of the Town of Henderson.

POOL, SWIMMING: A structure or facility constructed to hold water at least two feet deep and used for recreational purposes.

PORCH: A covered platform whether elevated or at grade that is attached to a structure and shall include covered patios or decks.

PRINCIPAL BUILDING: A building in which the principal use of the lot or parcel is conducted.

PRINCIPAL STRUCTURE: See Principal Building.

PRINCIPAL USE: The primary or predominant purpose for which any lot is used. When the principal use is agricultural use, any dwellings occupied by the owner, operator or full-time employee engaged in agricultural work on the premises, and their immediate families, shall be deemed part of the principal use. In the Agricultural and Rural Residence (AR-40), Business (B), Business-Residential (BR) and Residential (R-15) Districts, when the principal use of a lot is a commercial business, additional use of the lot as a single-family dwelling used by the owner/operator shall be deemed part of the commercial business use. In the Agricultural and Rural Residence District only, those uses defined as permitted accessory uses may be principal uses subject to site plan review.

PROFESSIONAL OFFICES: Offices which offer professional or consulting services such as medical, legal, engineering, architectural, real estate, and other similar services.

PROJECT: a development with the necessary site improvements on a particular lot or parcel, toward which the zoning permit was issued. An example would be a retail store building with the driveway access, parking improvements, drainage facilities, landscaping, and signage.

PUBLIC UTILITY: a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

PUBLIC UTILITY FACILITY: buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services such as electric, gas, telephone, water, sewer, and public transit, to the public.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers

maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Permit Granting Authority and the Town of Henderson determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

QUARRY, SAND OR GRAVEL PIT: Land used for the purpose of extracting. excavating, processing, storage or handling stone, minerals, sand, gravel, or top soil for sale, as a commercial operation; this excludes the process of excavation or grading a lot as preparation to construct a building for which a zoning permit has been granted.

RECREATION FACILITY, PERSONAL: A non-commercial recreation facility provided as an accessory use for the owners of the lot, such as a swimming pool or playground. Campgrounds and Recreational Vehicles are excluded.

RECREATION INDOOR: A commercial indoor facility primarily devoted to the amusement of the general public, including theaters, festivals, bowling alleys, swimming pools, playgrounds, amusement arcades and health clubs. Incidental food or refreshment service is included.

RECREATIONAL OUTDOOR: A Principle Use, stand-alone commercial facility for the enjoyment of the out-of-doors, such as golf driving ranges, playgrounds, putting or pitching greens, or golf courses; playing courts; playing fields; open space; swimming pool; recreational trails. Includes fairs and festivals. Excludes permitted Accessory Uses.

RECREATIONAL VEHICLE: A vehicle which is or was (must meet all criteria):

(1) built on a chassis;

(2) four hundred square feet or less when measured at plan view;

(3) self-propelled or permanently towable; and

(4) designed primarily as temporary living quarters for recreational, camping, travel and seasonal use and is not for use as a permanent dwelling.

For Recreational Vehicle placement requirements, (refer to Article VI, Section 150-34). Recreation Vehicles include Park Model RV's as described by the RVIA.

RESIDENCE: Any dwelling suitable for habitation existing in the Town of Henderson on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hunting camps, permanent and seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, correctional institutions.

RESIDENTIAL USE: The use for living purposes of single, two, and multiple family dwellings. The use of a lot located outside of a manufactured home park or campground and containing a single manufactured home used as a single family dwelling shall be deemed a residential use. The use of multiple dwellings on a single lot for living purposes shall be deemed a residential use.

RESTAURANT, DRIVE-THROUGH: A restaurant where food is served through a window to people who are in vehicles for consumption of the food off the premises. (**Amended, R 2019-12-17-079, 12-19-2019)**

RESTAURANT/LOUNGES: A commercial establishment that prepares and serves food and/or alcoholic beverages to the public, excepting snack bars or refreshment stands serving the patrons of a public recreational facility or institutional use.

RETAIL/RENTAL, LARGE PRODUCT: A commercial activity such as the sale or rental of automobiles, trucks, boats, recreational vehicles, farm implements, building supplies or equipment, trees and shrubs, or the auction of livestock or other goods.

REQUIRED YARD: That portion of a yard lying between a given lot line and the parallel line defined by the corresponding setback.

RETAINING WALL: A wall that holds back earth or water on one side.

ROAD: A right-of-way for vehicular traffic, including street, highway, avenue, lane or other way, which is an existing public way or a way shown upon a subdivision plat approved by the Planning Board. The term does not include private ways, driveways, or easements for the common access to roads. All roads shall meet construction standards prescribed by the Town Board.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption. (**Amended, R 2019-12-17-079, 12-19-2019)**

RUMMAGE SALE: The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed four (4) consecutive days in length and are not conducted more than 3 times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as “yard sales” or “garage sales”. Flea markets, defined elsewhere in this section, are not rummage sales.

SALVAGE YARD: See definitions for “Junkyard” and “Scrap Yard.”

SCALE OF DEVELOPMENT: The relationship of a particular project or development, in terms of its size, bulk, intensity and aesthetics, to its surroundings.

SCENIC CORRIDOR: An area visible from a highway, waterway, railroad or major hiking, biking, equestrian trail or publicly accessible area or right-of-way that provides views of vistas over water and/or expanses of land such as farmlands, woodlands, coastal wetlands or mountaintops or ridges.

SCRAP YARD: Unused, discarded or rejected materials that result from construction, manufacturing or fabricating operations stored outside.

SCREENING: A method of visually shielding or buffering one abutting or nearby structure or use from another by a certain percentage of opaque fencing, walls, berms and\or densely planted vegetation.

SELF-STORAGE FACILITY: A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time. **(Amended, R 2019-12-17-079, 12-19-2019)**

SENIOR CITIZEN HOMES: Planned homes or apartments designed exclusively for senior citizens, which do not have central facilities for dining or medical care.

SERVICE ROAD: A road that runs parallel to a higher order road such as an arterial or highway that provides access to abutting properties.

SETBACK: The perpendicular distance set forth in Schedule I or elsewhere in this chapter for each zoning district, between any given lot line and a line parallel to said lot line.

SHARED ACCESS: Any pathway or roadway serving two or more adjoining lots.

SHOPPING CENTER: A group of two or more commercial establishments built on a site that is planned, developed, owned and managed as an operating unit related in location, size, and type of shops to the trade area that the unit serves; it shall provide on-site parking in definite relationship to the type and total size of the stores as defined in this Law.

SIGN: Any structure, device, building or part thereof used for visual communication of an advertisement, announcement, directions, identification or other message.

SIGN, TEMPORARY: Sign used to advertise temporary events, such as garage sales, lawn sales, and special events, which will be removed upon the event's termination.

SOCIAL ORGANIZATION: An organization whose primary purpose is for social activities of its members.

SMALL-SCALE SOLAR: For purposes of this Local Law, the term “small-scale solar” refers to solar photovoltaic systems that produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

SMALL WIND ENERGY TOWER SYSTEM (“SWETS”) (small project): A wind energy conversion system that has a maximum rated capacity of 100 kW and is intended to generate on-site power.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT: An easement recorded pursuant to NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy. (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both solar panels and solar energy equipment. (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR FACILITY LOT COVERAGE: The area below the ground-mounted arrays, measured from the outer edge(s) of ground-mounted arrays, and the area below inverters, batteries, storage cells, and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways. If the ground-mounted arrays are movable, the surface area of the panels shall be used to determine lot coverage. (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR POWER FAST-TRACK PROGRAM: program to expedite all applications for commercial and residential solar panel installation to encourage the use of reliable and clean renewable energy.

SOLAR STORAGE BATTERY: A device that stores energy from the sun and makes it available in an electrical form.

SOLAR SYSTEM- GROUND MOUNTED: A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure or the primary purpose of producing electricity for onsite consumption. (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR SYSTEM- LARGE SCALE: A solar energy system that is ground mounted and produces energy primarily for the purpose of off-site sale or consumption. (**Amended, R 2019-12-17-079, 12-19-2019)**

SOLAR-THERMAL SYSTEMS: Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

SPECIAL USE PERMIT: A use allowed within a given zoning district that is potentially incompatible with other uses, and therefore allowed only subject to special standards and/or conditions set forth for such uses or types of uses, and subject to approval, approval with modifications, or disapproval by the Planning Board depending upon the use's consistency with the Zoning Law and the Town of Henderson Comprehensive Land Use Plan, including any amendments.

STORAGE BUILDING: A building greater than 300 square feet in area used to store large items, or quantity of items, such as but not limited to tractors, backhoes, and balers, and not already defined as a carport or garage.

STORAGE SHED: A one story building equal to or less than 300 square feet in area used to house

tools and small machines such as but not limited to, hammers, shovels, and lawnmowers.

STORMWATER POLLUTION PREVENTION PLAN: a plan for erosion and sediment control during site construction and for installation of treatment for post-construction runoff (NYS ECL Article 17, Titles 7, 8 and Article 70).

STREET: See definition for Road.

STREET LINE OR HIGHWAY RIGHT-OF-WAY LINE: The dividing line between a lot and a road right-of-way line.

STRUCTURE: A combination of materials to form a construction for use, occupancy, or ornamentation the use of which required location on the ground or attachment to something having location on the ground. For example, a septic system, outside furnace, deck, patio, canvas shed, carport, pool, fuel tank, and water tank shall all be deemed to be a structure. The term is not intended to include objects such as driveways, sidewalks, small structures of an ornamental or recreational nature (e.g. barbeque pit, flagstones, statues, swing sets etc.) with a total volume of less than 125 cubic feet).

SUBSTANTIAL IMPROVEMENT: Any extension, repair, reconstruction, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the estimated project costs, either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred. The term does not include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

SUITABLE SITE: A site that is adjacent to compatible land uses, has adequate access to a public street, avoids flood hazard areas and is consistent with the local comprehensive plan, regional plans and state environmental policies.

TELECOMMUNICATION TOWER: A structure on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

TELECOMMUNICATION ANTENNA: A system of electrical conductors that transmit or receive radio frequency waves.

TELECOMMUNICATION FACILITY: Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular/pc's operation (also known as base transceiver station (BTS)).

TEMPORARY PORTABLE STORAGE CONTAINER: is a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods, that does not contain a foundation or wheels for movement. Examples of this use include piggyback containers that can be transported by mounting on a chassis, and "POD" type boxes also known as EZ-Boxes or Smartboxes that can be transported on a flatbed or other truck; but do not include prefabricated sheds

that are not designed for transport after erection, or commercial trailers used by construction or other uses in the regular performance of their business. Temporary portable storage container, except those included in temporary construction permits, are subject to the provisions under the Zoning Law.

UNCLASSIFIED USE: A use which does not appear in the Schedule of Uses (list of permitted, accessory, site plan review or special use permit uses), but which is interpreted by the Planning Board as similar to a listed permitted, accessory, site plan review or special permit use, and not otherwise prohibited in this Chapter.

UNDEVELOPED/UNIMPROVED LOT: A parcel or lot that lacks any permanent structure placed on or affixed to said real estate.

USE: the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

VARIANCE, AREA: A modification of the dimensional requirements of this chapter.

VARIANCE, USE: A unique exception granted by the ZBA to utilize land for a use not permitted in its district.

VIEWSHED: An elevated or unobstructed location, position or area that permits an unhindered panoramic vista of particular interest or pleasure or unique view to or from a particular point.

WALL: See Fence.

WAREHOUSE: A facility that stores goods for future transportation, including self-storage units and truck terminals.

WATERFRONT PROPERTY: Property which abuts Lake Ontario, its bays and coves, Crystal Lake, and that portion of Stony Creek south and west of the bridge crossing Stony Creek on County Route 152 as shown on the Town Zoning Map.

WATERFRONT PROPERTY LINE: Along waterfront property, the waterfront property line shall be determined as the mean high water level elevation.

WETLAND: as defined, mapped and protected by the New York State Department of Environmental Conservation pursuant to the NYS Freshwater Wetlands Act (NYS ECL ARTICLE 24, Title 23 of Article 71). The U.S. Army Corps of Engineers (ACOE) also defines and protects wetlands, under Section 404 of the Clean Water Act.

WIND TURBINE GENERATING FACILITY (COMMERCIAL WIND FARM): Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of commercial wind power generating facilities shall not include individual wind power generating facilities erected and used primarily for private use (see SWETS).

WIND TURBINE, ROOF MOUNTED: A relatively small wind generating facility which generates original power on-site for on-site use by the property owner or home-owner, mounted on the principal

building's roof and with a maximum height no greater than ten (10) feet above the Building Height.

WIND TURBINE TOWER: Wind generating facility which generates original power on-site.

WIND TURBINE TOWER PRIVATE: An individual wind turbine tower used to generate power for on-site use by the property owner or home-owner, except for the required electrical current feed-back to the power company.

YARD: The area of a lot surrounding the principal structure and bounded by the lot lines.

(1) YARD FRONT: The space located between the front lot line and the front building line of the principal structure and extending the full width of the lot. For the purpose of this chapter, the front yard of waterfront property shall be the yard between the waterfront property line and the front building line.

(2) YARD, REAR: The space located between the rear lot line and the rear building line of the principal structure and extending the full width of the lot

(3) YARD, SINGLE SIDE: The area bounded by the side lot line, the front building line of the principal structure, the rear building line of the principal structure and the principal structure.

(4) TOTAL SIDE YARD: Sum of two side yards.

ZONING BOARD OF APPEALS (ZBA): The Zoning Board of Appeals of the Town of Henderson.

ZONING PERMIT: A permit issued under this chapter by the Enforcement Officer evidencing compliance with the requirement of this chapter prior to any change in use or construction, alteration, demolition or removal of any structure.

ARTICLE III

Establishment of Zoning District

§ 150-7. Zoning Districts.

The Town of Henderson is hereby divided into the following zoning districts to preserve rural character, scenic corridors, economic and cultural resources of the town:

A. Lakefront (LF) Purpose: To encourage controlled waterfront single family residential uses and private recreational uses while preserving scenic and natural public vistas of and along the lake or river.

B. Island (I). Purpose: To allow for controlled development of existing islands, while preventing overcrowding and obstruction of water public vistas.

C. Agriculture and Rural Residence (AR-40). Purpose: To encourage the continuation of agricultural use in harmony with single family development; to permit appropriately sited commercial services.

D. Business (B). Purpose: To encourage commercial/service development access to, and visibility from, major traffic arterials, while moderating the proliferation of access points and preventing the obstruction of lake vistas.

E. Business Residential (BR). Purpose: To allow both residential and a variety of office or compatible commercial development within the district to foster pedestrian accessible residential areas that incorporate support services.

F. Residential (R-15). Purpose: To encourage a mix of residential and compatible small commercial uses in a medium-density hamlet setting.

G. Harbor (H). Purpose: To allow a mix of residential and water dependent/water enhancing uses in a high density setting, while preserving public vistas and physical access to Lake Ontario.

H. Planned Development District – Overlay**.** Purpose: To enable the Town to establish Planned Development Districts at designated specific locations by amending this chapter so as to encourage a mix or variety of compatible uses such as residential, affordable residential, office, commercial and/or recreational with building types that compliment each other within a single district where such combined uses might not be allowed under ordinary zoning district standards. Also to provide for the development of these mixed use projects in a comprehensive manner instead of piecemeal to save open space that otherwise would be lost or wasted, and to promote more efficient use of land while protecting natural resources and priority character and view shed areas.

I. Corridor Overlay District – Overlay**.** Purpose: To retain the agricultural and visual character and maintain the natural and scenic quality of and area while fostering residential, character sensitive commercial and agricultural related development where appropriate. It is also the intent within the district to preserve the arterial function of the state highways that comprise the corridor. When considering development in this area, proposed developments should be consistent with the overall Town planning vision, goals and strategies found in the Comprehensive Land Use Plan as well as this Law and the Town of Henderson Subdivision Law.

J. Open Development District – Overlay. Purpose: To permit the issuance of building permits in areas of the Town where direct access to a public road is not possible, thus satisfying the requirements of New York State Town Law § 283a.

§ 150-8. Zoning Map Certification.

A. The above titled zoning districts are bounded as shown on the map entitled "Town of Henderson Zoning and Overlay District Map" dated January 2006, which map is filed in the Town Clerk's Office and is hereby adopted and declared to be part of this chapter. Changes may be made by the Town Board, within their authority.

B. In the event of any change in district boundaries or other matter shown on the map, a new map

shall be promptly prepared with a note and description of the nature and date of the change and copies shall be provided to all Town, Planning, and Zoning Board of Appeals members. The new map shall be filed in the Town Clerk's office together with all previous Zoning maps.

***§ 150-9. Interpretation* of district boundaries.**

A. Where uncertainty exists with respect to the exact boundaries of districts as shown on the Zoning Map, the final decision shall be made by the Town Zoning Board of Appeals.

B. District boundary lines in general follow, or parallel at set distances, street lines, existing lot lines, and other man-made or natural features. The Enforcement Officer shall be given the authority to scale these districts from the Zoning Map and relate them to accurate ground points.

C. Where a lot is located in two zoning districts as shown on the Town of Henderson Zoning Map, the stricter district standards and requirements shall apply as directed by Article IV of this Law, and the Town of Henderson Zoning Map.

ARTICLE IV

§ 150-10 General Requirements.

A. Conforming lot, yard, and structure Dimensional Requirements. The minimum conforming dimensional requirements for each district are tabulated in Schedule I, District Lot, Setback, and Height Regulations. These tabulated dimensional requirements may be increased by special requirements imposed by the Planning Board for special permit uses. They may be varied only by action of the Zoning Board of Appeals, or by the exceptions detailed in this Chapter.

B. Uses: The permitted uses for each district are tabulated in the Schedule of Uses: Permitted Principal, Permitted Accessory, and Special Permit.

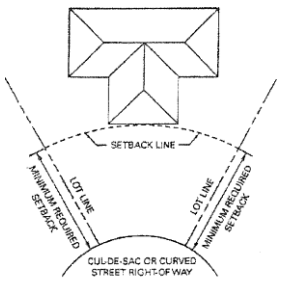
C. Setback and Yard Requirements

(1) Setback requirements shall be measured in a line perpendicular to the lot line from which a structure must be set back to the building line of that structure closest to that lot line.

In the case of lots fronting on a circular cul-de-sac, the front yard setback shall be the required setback distance of this chapter for the lot, measured back from an arc parallel to the street right-of-way. Other side and rear setbacks are as defined in this chapter. Refer to the diagram to the right.

(2) The side yard of every corner lot shall be equal to the front yard requirement for structures fronting on the side street.

(3) No yard or open space on one lot shall be considered as providing a yard or open space for a building on any other lot.



Cul-de-sac Setback Measurement

(4) No accessory building shall be placed in any required side or front yard with the following exceptions: A boathouse in a waterfront lot may be located no closer than 10 feet from any side lot line. Similarly, small structures that are no longer than 10 feet in length and 4 feet in depth that are used for the on-premise sale of agricultural goods are permitted.

(5) No storage shed may be closer than ten (10) feet from any rear or side lot line. Any storage shed more than ten (10) feet in height shall be set back a distance from the rear or side lot line equal to the height of the structure or the required setback distance for the zoning district.

(6) Fences, see Section 150-25.

(7) No accessory structure may be located closer than 10 feet from any side, rear, or front lot line with the exception of fences, parking areas, boat ramps and docks.

D. Area Coverage

(1) Building Coverage shall not exceed 20% of total lot area.

(2) Lot coverage shall not exceed 30% of total lot area.

E. Unclassified use process:
Upon inquiry by an applicant, the Planning Board will determine if a proposed use not specifically listed is allowed utilizing the criteria herein. Should interpretation be made that a proposed unlisted use not be allowed in a specific zoning district, the Planning Board shall recommend which zoning districts, if any, do permit the use. An aggrieved person who does not concur with the permit type applied to a use may appeal to the ZBA. Interpretations made by the Planning Board shall be documented and updates to the Schedule of Uses shall incorporate "unclassified use" interpretations upon approval by the Town Board.

§ 150-11. Planned Development District.

A. General Requirements for lots/parcels:

(1) Minimum Area: The proposal must include at least ten (10) contiguous acres of land.

(2) Ownership: The land involved may be owned, leased, or controlled by either a single owner, or by a group of owners. An application must be filed by all owners of all property included in the project. In case of multiple ownerships, the approved plan shall be binding on all owners.

(3) If the applicant can demonstrate that the proposal's characteristics meet the objectives of this chapter, a Planned Development District may be designated in any area of the town by the Town Board.

(4) Common property is not required for Planned Development Districts. However, it is often characteristic of such proposals. Common property is a parcel(s) of land, with or without improvements, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, its ownership may be either public or private. When common property exists in private ownership, satisfactory arrangements must be presented for the improvement, operation and maintenance of the common property and facilities, including private streets, drives, parking areas, recreational and open space areas.

(5) Specific use regulations shall be determined by the Town Board.

B. Planned Development District Procedure: To establish a Planned Development District, the Zoning map must be amended in accordance with the following procedures and the regulations for amendments to the Zoning Law (Article 1, §150-3).

(1) Prior to the preparation and submission of a completed application and site plan the owners may request a meeting with the Planning Board for the purpose of reviewing and discussing the proposed uses, densities, infrastructures, common areas and other elements of the proposed Planned Development District. This meeting is intended to assist the owners in planning and preparing the application and site plan. It should be noted, however, that the more detail the owners provide to the Planning Board the more that board will be able to provide the owners with guidance and advice prior to their final preparation of the plans and specifications.

(2) Application for a Planned Development District shall be made to the Planning Board, with copies to the Town Board, by the owner(s) of the property included in the proposal. The application shall consist of all the information required for Site Plan Review.

(3) The Planning Board shall review the application according to the criteria and procedures for Site Plan Review, except that a public hearing is not required, nor shall the Planning Board be limited by the use and area requirements of the existing underlying zoning districts except for density requirements. The Planning Board shall have a maximum of sixty (60) days from receipt of all materials and any information required by it to make its recommendations to the Town Board.

(4) The Planning Board shall recommend in writing (rather than take final action) approval, approval with conditions, or disapproval of the application and site plan to the Town Board.

~~(5)~~ Within forty-five (45) days of receiving the Planning Board recommendation, the Town Board shall hold a public hearing on the proposal. Within forty-five days after the public hearing has been closed, the Town Board shall deny, approve, or approve with modifications the application for the Planned Development District and its site plan.

~~(6)~~(5) If the Planned Development District is approved, the permitted development must be confined to the specific designated area and the approved site plan must be adhered to in all respects. Anything different from these requirements shall constitute a violation of the Zoning Law.

~~(7)~~(6) If after thirty (30) days notice to the owners the Town Board by resolution finds that

noticeable progress towards development has not been demonstrated within one (1) year from the date Planned Development District status has been granted, the land shall revert to its former zoning status upon filing of said resolution with the Town Clerk, who shall make the necessary notation on the Zoning map. The owners may request the Town Board, in its discretion, for extensions and modifications to the projected construction schedules and staging phases contained in the approved site plan.

~~(8)~~(7) A particular Planned Development District shall not be changed to increase dwelling units, increase housing density, or increase non-residential square footage or to change any specific conditions placed upon the applicant by the Town Board without undergoing a complete Planned Development District procedure as outlined in this section.

(8) ~~Except as otherwise provided in this section, a~~A change of site plan will require only site plan review and approval by the Planning Board.~~only site plan review and approval by the Planning Board.~~
~~(9)~~

§ 150-12. Nonconforming uses, lots and structures. **(Amended 6-14-1995 by LL #6 - 1995)**

The intent of this section is to recognize certain uses, lots of record, and structures which legally existed at the time of enactment of this chapter and which would be prohibited or unreasonably restricted by the provision, regulations, standards, or procedures herein. This section shall not, however, be construed to perpetuate expansion of such uses, lots, or structures. Unless modified by the provisions of this Section, the requirements of § **150-10** must be met wherever applicable.

A. Nonconforming uses. A nonconforming use:

(1) May be continued or extended throughout any part(s) of a building which was manifestly arranged or designed for such use at the time of the effective date of this chapter.

(2) Shall not be resumed if the use ceased for a consecutive period of eighteen (18) months or twenty-four (24) non-consecutive months during any three year period.

B. A structure on a nonconforming lot which has been developed prior to the effective date of this chapter may be altered, relocated, rebuilt or replaced on said lot, and a new accessory structure may be added upon site plan review and approval or approval with modifications by the Planning Board and subject to the following conditions:

(1) The original structure was erected or placed in accordance with the then applicable zoning regulations at the time of its construction or placement.

(2) The minimum side yards shall be not less than 10 feet on one side and 25 feet combined for both sides.

(3) The minimum front yard setback shall be:

(a) 50 feet

If this cannot be met, then:

(b) The smallest distance on adjoining lots, between the front lot line and the nearest

building. In no case shall this be less than 10 feet.

(4) The minimum rear yard setback shall not be less than 25 feet.

(5) The structure resulting from the change is in conformity with this chapter.

C. A nonconforming undeveloped lot may be improved by adding a new principal structure upon meeting all of the following conditions:

(1) The owner applies and receives a special use permit pursuant to §150-20.

(2) If the nonconforming lot adjoins another lot or lots owned by the same owner which could be assembled under Chapter 135, Subdivision of Land, such lots must be assembled prior to the time of the application for special use permit or the first effective date of this chapter to create a single lot which either results in a conforming lot as contained in Article IV Section 150-10 or reduces the nonconformity.

(3) The proposed use and structure comply with all other applicable provisions of this chapter and all other applicable local laws, county local laws and New York State laws and regulations.

(4) The following minimum area requirements for a nonconforming lot which are necessary for public health, safety and welfare. If the lot owner has adjacent undeveloped land that could be combined to decrease the nonconformity, then this assembly shall be required.

Nonconforming Lot Setback Requirements	**Feet**
Front yard	50
Rear yard	25
Single side yard	10
Combined total side yards	25
Lot width	100
Total lot area	15,000 square feet

D. A nonconforming lot may be improved by adding new accessory structures pursuant to the requirements of Zoning §150 - 12 B (1-4) and §150 - 12 C (1-4).

E. Nonconforming structure. A nonconforming structure:

(1) May continue to be used on the lot upon which it was located at the time it was a conforming structure if the use is in conformity with this chapter, or the use is in accordance with Subsection A and B above.

(2) Shall not be replaced upon destruction or removal from the lot, except with a conforming structure in accordance with the provisions of Subsection B above.

(3) Shall not be altered or rebuilt if not used for a consecutive period of 18 months, or 24 nonconsecutive months during any three-year period.

F. Nothing in this chapter shall be deemed to prevent the partial demolition or alteration, strengthening or restoring to safe condition of any nonconforming structure, or any structure located on a nonconforming lot, declared unsafe by resolution of the Town Board in accordance with the provisions of Chapter 76, Unsafe Buildings of the Town of Henderson Code, and the NYS Building Code.

§ 150-13. Nonconforming lots of record.

Intentionally Vacant

Article V

Administration and Enforcement

§ 150-14. Enforcement Officer.

A. This Law shall be enforced by the Enforcement Officer, who shall be appointed by the Town Board.

B. The Enforcement Officer's duties shall include:

(1) Process zoning permits within 7 days of application whenever possible.

(2) Issue or deny certificates of compliance within 14 days of request whenever possible.

(3) Determine whether a project or projects shall constitute one or more zoning permit applications.

(4) Scale and interpret district boundaries on zoning maps.

(5) Inspect and certify that the requirements of this chapter have been adhered to.

(6) Refer appropriate matters to the Zoning Board of Appeals, Planning Board, Town Board and County Planning Board where applicable.

(7) Revoke a permit where there is false, misleading or insufficient information. Revoke a permit and/or certificate of compliance where the applicant has not done what was proposed on the application.

(8) Issue stop work orders, investigate violations and refer violations to the Town Justice, or the Town Board.

(9) Report to the Town Board the number of permits issued and fees collected at such intervals as required by the Town Board.

(10) Conduct regular scheduled surveys of the Town to detect unauthorized development of lots,

according to a schedule approved by the Town Board.

(11) Promptly file all records with the Town Clerk, including but not limited to all applications under this law and written records of complaints and actions taken in response thereto.

(12) Attendance by the Enforcement Officer or his designee of all Planning Board, Zoning Board of Appeals and Town Board Meetings when requested on sufficient notice by the Chairman of such Boards or the Town Supervisor.

(13) Complete periodic inspection of campgrounds consistent with Article 7, Section 150-41, paragraph H, line 3 and inspection of manufactured home parks consistent with [Article 7, Section 150-41, paragraph B, line 17].

(14) Administer and implement the Town's Flood Damage Prevention Law by granting or denying floodplain development permits in accordance with its provisions.

§ 150-15. Application of requirements and zoning permit.

A. No building, structure, or part thereof shall hereafter be used, occupied, erected, moved or altered, and no alteration of the land surface preliminary to or incidental to such activity including grading, filling, excavation, paving, etc., shall occur except in conformity with the regulations herein specified and only after a zoning permit for such has been issued.

Any soil or land disturbance and/or fill material affecting 500 square feet or more of land surface, or if the excavation, fill or combination thereof involves more than 20 cubic yards, or if the slope of the site is more than 20%, the activity shall require a zoning permit to be issued prior to being undertaken. All such activities shall adhere to and be consistent with Section 150-31, paragraphs A and B.

B. A zoning permit shall not be required for routine maintenance and improvement (e.g. roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure and that does not involve a change in use.

C. When establishing measurements to meet the required yard and structure setbacks, the measurement shall be taken from the lot line or nearest mean high water mark elevation to the building line in accordance with §150-10C of this Law.

D. In the case of a corner lot, both yards adjoining the intersecting roads shall meet the appropriate setback for the front yard.

E. When an accessory structure is attached to the principal building, it becomes an integral part of the principal building. All yard and setback requirements shall apply to the building as a whole.

F. Maximum height requirements as set forth in Schedule I do not apply to silos, other such agricultural uses, and churches.

G. No zoning permit or Certificate of Compliance shall be issued for any lot upon which the construction or alteration of a building or use thereof would be in violation of any of the

provisions of this law.

H. A zoning permit issued under this Law, shall expire twelve (12) months from the date of issue if construction of the structure thereby authorized has not started. The Zoning Permit may be renewed on a yearly basis if substantial improvement has been made in the construction of the project for up to twenty-four months (24) after the initial twelve (12) month period. If this does not occur, the applicant must reapply with a new complete application.

I. Any conforming use except a dwelling that has been discontinued for a period of twelve (12) continuous months or longer may not be reinstated without applying for a new zoning permit.

J. Applications for zoning permits shall be submitted on forms approved and issued by the Town Board. Such forms shall include, but shall not be limited to, the following information:

(1) The name, address, telephone number, and email address of the owner of the lot which is to be developed or altered.

(2) The tax parcel number assigned to this lot. Where the tax parcel includes more than one legally described lot, the owner shall provide the deed or other legal reference required to locate the legal description of the lot.

(3) A unique number which identifies the application.

(4) The date of the application.

(5) The date of final inspection, pursuant to which a Certificate of Compliance may be issued.

(6) Disposition of the application:

(a) Approved with approval of application for Building Permit.

(b) Disapproved - with reason for disapproval.

(c) Referred to the Planning Board for special use permits, site plan review and/or subdivision.

(7) The signature of all owners of the lot.

(8) The signature of the Enforcement Officer.

(9) Authorized signature of the Zoning Board of Appeals and/or the Planning Board if the permit requires such authorization.

(10) In case of placement of a manufactured home or recreational vehicle, the make and year of manufacture.

(11) In addition the application shall include two (2) copies of a layout or plot plan showing the actual dimensions of all legally described contiguous lots to be built upon: the size and

location on the lot of the building and accessory building to be erected; the distance from the building line to all lot lines, road right-of-way line, waterfront property line, streams and any other significant features of the lot; such other information as may be necessary to determine and provide for the enforcement of this Law. If the application requires site plan review, the application shall contain all the information required under Article VI.

K. All applicants for any permit, approval, or variance under this Local Law are required to pay a fee to cover the administrative expenses of the Town unless otherwise exempted in this law. Failure to pay such a fee shall be deemed a violation of the Local Law.

(1) All applications for any approval, permit or variance shall be accompanied by a cash deposit, certified check or surety bond payable to the Town of Henderson in an amount determined by:

(a) The Supervisor for all applications requiring the Town Board's approval or other action.

(b) The chairman of the Planning Board for all applications requiring the Planning Board's approval.

(c) The chairman of the Zoning Board of Appeals for all applications requiring such Board's approval or decision.

(d) The Enforcement Officer for matters requiring his approval or action. The Town Board shall determine a fee schedule for all applications per project regardless of whether any other agency of the Town is involved. The fee required by Town Board is a liquidated portion of the total administrative expenses and it shall not be increased or refunded.

(2) The Supervisor, Chairman of the Planning Board, or Chairman of the Zoning Board of Appeals, as the case may be, shall if necessary obtain estimated expenses from the Town Engineer, Town Attorney and Town Clerk prior to setting the amount of the cash deposit, certified check, or surety bond required of each applicant.

(3) The Supervisor, Chairman of the Planning Board, or Chairman of the Zoning Board of Appeals, as the case may be, may require additional security for the Town's administrative expense, in accordance with the provisions of this Section, in the event that the Town's potential liability for such expenses exceeds the initial amount deposited.

(4) Upon completion of the latter of: final approval, or rejection of, any application or approval; or final approval of any and all completed improvements and submission of all final bills to the town for its administrative expenses incurred as a result of the applicant's proposed plan, all unused funds or proceeds from a surety bond shall be refunded to the applicant within a reasonable period of time.

L. Temporary Permits may be issued by the Enforcement Officer for a period not exceeding one (1) year for conforming and nonconforming uses incidental to housing and construction projects, including such structures and uses as storage of building materials and machinery, processing of building materials, and onsite office work directly related to the project. Temporary storage

containers not part of a renovation or construction project may be permitted for a period not exceeding six (6) months. The Enforcement Officer shall notify the Planning Board of the issuance of such Temporary Permits. Such permits are conditioned upon agreement by the owner or operator to remove the temporary structure(s) or equipment upon expiration of the permit or to bring the use into compliance and obtain a Zoning Permit. Any extensions or renewal of a Temporary Permit shall only be granted upon approval by the Planning Board and may only be renewed or extended once and for a period not exceeding one (1) year.

M. The Zoning Permit shall be prominently displayed so as to be visible from the outside of the building or structure to be altered or erected until such time as a Certificate of Compliance has been issued.

§ 150-16. Certificate of compliance.

A. After a zoning permit has been issued, no structure or land shall be occupied or used until a Certificate of Compliance has been issued by the Enforcement Officer stating that the building, structure or proposed use thereof complies with the provisions of this Law and the Zoning Permit.

B. All certificates of compliance shall be applied for at the same time as the application for a zoning permit. Said certificate shall be issued after the structure has been inspected and approved by the Enforcement Officer as complying with the provisions of this law and the zoning permit.

C. The Enforcement Officer shall maintain a record of all certificates issued.

D. No certificate of compliance shall be issued for a special permit use until all required improvements, such as storm sewer, water supply, sewage disposal, landscaping, traffic controls, sidewalks, curbs, parking, access facilities, etc. have been constructed or installed in accordance with the approved plan, including all conditions the Planning Board may have required in accordance with Article VI.

E. If the Enforcement Officer specifically finds there has been substantial completion of all work required by the permit or the approvals authorizing the issuance of the permit, he may issue a temporary certificate of compliance for three months, which may be renewed once for an additional three months.

§ 150-17. Planning Board.

The Planning Board shall have all the power and duties prescribed by Town Law and by this chapter. Specifically, the Planning Board is hereby granted the authority to administer the site plan review and special permit requirements of this chapter.

§ 150-18. Zoning Board of Appeals.

A. The Zoning Board of Appeals shall have all the power and duties prescribed by Town Law and by this chapter, which include the following:

(1) Interpretation: Upon appeal from a decision by an administrative official, it will decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.

(2) Variances: The Zoning Board of Appeals may vary the strict application of any of the requirements of this chapter as provided by law. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

B. The Zoning Board of Appeals shall act in accordance with procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Town Board. Every appeal or application shall refer to the specified provisions of the law being appealed, shall exactly set forth the interpretation that is claimed, the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be.

§ 150-19. Penalties for offenses.

A. Whenever a town official or another person complains of a zoning violation, or the Enforcement Officer notices a violation, the Enforcement Officer shall make an inspection. If a violation exists, the Enforcement Officer shall issue a stop-work order when appropriate and a notice to correct violation, which shall inform the landowner of the nature of the violation and require that the landowner comply with this chapter within 14 days of the notice to correct violation.

B. If the violation continues, it is an offense punishable by fine up to the maximum extent allowable by NYS Town Law, Section 268 or imprisonment for a period of up to six months or both for conviction of a first offense and any subsequent offenses; For the purpose of conferring jurisdiction upon courts and judicial officers, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. The town may appear in Justice Court and prosecute by the Enforcement Officer or Attorney retained by the town, with the consent of the District Attorney, all violations.

C. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of the law.

§ 150-20. Special use permits.

Purpose: The purpose of the special use permit is to allow approval of uses with conditions which are deemed to possess location, use, building, and traffic characteristics that are unique or special in form as to make it impractical or undesirable for their automatic inclusion as permitted or accessory uses in

certain districts.

A. Authority. Pursuant to authority delegated in accordance with Section 274-b of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to grant special use permits as set forth in this zoning law.

B. Applicability of special uses. Uses requiring a special use permit shall be controlled by the regulations in Articles V and VII in addition to the regulations which apply in each district for any specific use. Such uses must also follow the requirements for site plan review. No zoning permit or certificate of compliance shall be issued for any use or structure requiring a special use permit until approval has been granted by the Planning Board as required below.

C. Expiration. A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six months for any reason.

D. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter or any other local law, ordinance or local rule or regulation.

E. Procedure. All Special Use Permits shall be issued in accordance with the requirements herein. A special use permit shall adhere not only to the following procedures and criteria but to those defined in Article VII Site Plan Review.

(1) Any individual desiring to establish, enlarge, alter, modify or change any of the uses requiring a special permit shall first make application to the Planning Board for a special use permit. In particular applicants for commercial uses shall first appear before the Planning Board for preliminary review of their proposals. Such application shall be made upon the forms provided therefore and available from the Enforcement Officer; and shall be signed by all owners of the affected property. Such application shall be accompanied by three copies of a map or plan containing all of the information required on a site plan as specified by this chapter. Upon receipt of an application and all supporting documentation as may be required by this chapter and any other law or ordinance, rule or requirement of the Town of Henderson or the State of New York (including Art. 8 of the Environmental Conservation Law), the Enforcement Officer shall cause copies of the application to be sent to the Planning Board, the Jefferson County Planning Board and any other agencies, individuals or departments as he deems appropriate.

(2) Within sixty-two (62) days from the date of receipt of a completed application as determined by the Planning Board, the Planning Board shall hold a public hearing on the proposal.

(3) The Town Planning Board shall render a decision on the request within sixty-two (62) days from the date of the close of said public hearing.

(4) The Planning Board may elect to allow the review process for a special permit to coincide with the site plan review process where site plan review is required by this chapter. Such a concurrent process may include simultaneous filing dates, public hearings and other procedural requirements. The Record of the Planning Board shall clearly document

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concurrent review where it is employed.

F. Criteria. Within sixty-two (62) days from the close of the public hearing at which the applicant is heard on the request for a special use permit, the Town Planning Board shall adopt a resolution setting forth its findings of fact and decision on the request. The decision will be based on the following criteria, and those contained in Article VII of this chapter, if relevant.

(1) That the proposed use or structure in all respects meets the minimum requirements of this chapter.

(2) That all other necessary approvals, permits or authorizations required by any department, agency or bureau of any other governmental agency, including the County of Jefferson, State of New York or the United States, have been obtained or, if not, that any grant of a special use permit shall be conditioned upon obtaining such approvals, etc.

(3) That the character and neighborhood integrity of the land in the vicinity of the proposed use or structure will not be significantly disrupted or disturbed by the proposed use.

~~(3)~~(4) Must align with a Town's comprehensive plan, as the plan serves as the foundational vision and policy guide for all land use regulations, ensuring zoning decisions are consistent, systematic, and serve the community's long-term goals, not just arbitrary decisions. Development must complement the existing community character. All projects should prioritize the preservation of community character and natural topography to maintain the area's unique aesthetic and cultural identity.

~~(4)~~(5) That the proposed use ~~is reasonable considering~~must consider such factors as:

(a) Traffic generation and impact on existing transportation systems.

(b) Proximity to other uses inherently incorporated with the proposed use
.

(c) Visual and aesthetic considerations regarding the proposed use.

(d) General compatibility of the proposed use with other uses in the vicinity.

(e) Availability of all municipal services.

(f) Any other factors affecting the general health, safety or welfare of the inhabitants of the Town of Henderson as the Town Planning Board may deem germane or important.

(g) Local rules, regulations and policies as are reasonable and appropriate.

~~(5)~~(6) Compliance with any other specific criteria as set forth herein as applicable to the proposed use. The Town Planning Board shall be required to condition the approval of any such special use permit upon the applicant obtaining site approval.

G. Specific Review Criteria. The Town Planning Board may grant a special use permit in accordance with the procedures stated in the Zoning Code for Specific uses located in *Schedule II Permitted Principal, Permitted Accessory & Special Uses.* Particular standards to which the proposed project must conform are identified herein and are in addition to requirements specified elsewhere in

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§150-20 and Article VII of the Town Zoning Code.

(1) **Manufactured Home Park**.

(a) All manufactured homes shall meet the requirements for individual manufactured homes.

(b) The owner shall be responsible for proper maintenance of the manufactured home park.

(c) A manufactured home park shall have an area of not less than five acres, and no manufactured home or service buildings shall be closer than 100 feet to a street line or 50 feet to any property line.

(d) The park site must be well-drained or have appropriate improvements to ensure adequate drainage.

(e) Street entrances must be at least 24 feet wide, and the street must be constructed of all-weather materials, as approved by the Town Highway Superintendent or an engineer employed by the town.

(f) At least two access streets shall be required to serve any manufactured home park having 20 or more manufactured homes.

(g) The total number of manufactured home sites shall not exceed five per gross acre, and no manufactured home may be closer than 30 feet to any other manufactured home. Individual manufactured home sites shall have a minimum width of 50 feet and a minimum depth of 100 feet.

(h) Side and rear property lines shall be densely planted with trees and shrubs so as to provide an adequate visual barrier from adjacent properties.

(i) There shall be provided on the site an area or areas devoted to the joint recreational use of the residents thereof. Such open space shall have a total area equal to at least 20% of the gross land area of the lot and shall be fully maintained by the owner of the park. All of such space shall be in the form of developed recreation areas to be usable for active recreational purposes.

(j) The owner shall provide a common area for the residents to dispose of garbage and household solid waste. The owner shall provide the details of such solid waste disposal plan as part of the site plan review. The owner shall take all necessary steps to control pests, insects and odors. All solid waste disposal facilities shall be adequately screened and maintained.

(k) Streets and walkways shall be lighted to ensure safety for residents.

(l) The manufactured home park shall be landscaped, graded and seeded.

(m) There shall be a minimum of two off-street parking spaces for each manufactured home site.

(n) All fuel tanks shall be adequately screened from view.

(o) All utilities within the park shall be buried underground whenever feasible.

(p) Any alteration in the layout or use of the park shall require prior site plan review and approval by the Planning Board.

(q) The Enforcement Officer shall inspect each manufactured home park at least once each year.

(r) An adequate supply of potable water shall be provided, and wastes from showers, toilets and laundries shall be discharged into a suitable sewer or septic system. Plans for the proposed water supply system and sewage disposal system must receive written approval, if applicable, from the New York State Departments of Health and Environmental Conservation and all other applicable agencies.

(s) Before the park commences operation, the Enforcement Officer shall make an inspection of the premises to determine that all requirements of this chapter have been complied with and shall issue a certificate of compliance. No use shall be permitted until such certificate has been issued.

(2) **Fuel storage and supply facilities**.

Gasoline/fuel pumps for automobile service stations and motor vehicle repair and service stations shall not be located closer than 40 feet to any street line or 30 feet to any side or rear lot line. Above ground fuel storage tanks shall be placed at least 50 feet from any lot or street line. All fuel storage/distribution systems shall comply with NYSDEC Petroleum Bulk Storage Regulations and other local, county, state, and federal requirements including fire suppression. This section shall apply whether the fuel storage is a principal or accessory use.

(3) **Junkyard**. (See also, Chapter 103, Junk, Junkyards and Junk Vehicles)

(a) All buildings, structures and areas on the lot used as a junkyard, as defined by this chapter, shall be located at least 30 feet from any lot line and 75 feet from any street line.

(b) The entire area of the lot to be utilized as a junkyard shall be surrounded by a fence at least eight feet in height and constructed of materials which will screen visibility from any street, roadway or adjoining property. The fence shall have a gate or gates, which can be secured when the junkyard is closed or has no person in attendance. The fence shall be placed at least 25 feet from any property line and 70 feet from any street line. Notwithstanding the above, if the collection, storage and processing of all materials is located exclusively within an enclosed building, the Planning Board may waive the screening and fencing requirements of this section.

(4) **Hotels/motels**.

The regulations below pertain to new hotel or motel construction. Complete renovation of an existing building should, to the extent possible, conform to these requirements as well.

Existing structures are required to meet the criteria in existence at the time of its construction.

(a) No rental structure or part thereof shall be placed closer to any street line than 50 feet, or closer to a side property line than 30 feet.

(b) Automobile parking space shall be provided to accommodate not less than one car for each rental unit.

(c) Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All sanitary facilities, including the waste disposal system and the water supply system, must receive written approval from the New York State Departments of Health and Environmental Conservation, as appropriate.

(d) If the rental units are individual structures, each unit is required to have 1,000 square feet of land area.

(e) The minimum distance between structures shall be 15 feet.

(f) The property must be appropriately landscaped, graded and seeded and shall be buffered to minimize the impact on the neighborhood.

(g) The primary visual presence along the major street frontage should be the building and driveway approach, not the parking lot.

(h) When Hotels and Motels abut public or private streets, a minimum landscaping setback of 20 feet should be provided. Landscaping setbacks from interior property lines should be at least 5 feet.

(i) The scale of buildings should be related to surrounding development patterns. Upper floors should be set back to lessen the appearance or mass and bulk.

(j) No building or structure used as a hotel or motel shall exceed two (2) stories in height. In addition to the story limit, no such building shall exceed a total height of thirty-five (35) feet, measured from the mean ground level surrounding the building to the highest point of the roof.

~~(j)~~(k) For structures with more than one story, access to guestrooms should be provided from interior hallways.

~~(k)~~(l) A 5-foot wide minimum buffer with landscaping should separate ground floor rooms from on-site walkways, parking facilities, and other on-site amenities.

~~(l)~~(m) All exterior lighting, signs, etc. shall use shielding and dark-sky compliant to prevent visibility from Lake Ontario or adjoining parcels.

~~(m)~~(n) Additional SUP Criteria for Island Zoning District

a. Minimum lot size shall be 10~~3~~ acres.

~~a.~~b. Parking lots shall not be visible from Lake Ontario or adjoining parcels.

~~b.~~c. All development shall allow a minimum of 25% open space incorporated into the

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site plan (excluding roads, parking lots and the like).

~~c.~~d. A Motel/Hotel may not be within 5000~~1000~~ feet of a Campground, or another Motel/Hotel

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~~d.~~c. Each rental unit of a hotel/motel shall be a minimum of 200 feet square feet of living area, including bathroom facilities to be contained in a total of no more than 4000 feet square foot total motel/hotel rental area (e.g. 20 rental units maximum). For clarity additional foot print is allowed for reasonable common area, office and storage separate from the rental units.

(5) **Public utility facilities**.

(a) All buildings, structures and accessory uses shall be located at least 100 feet from any lot line.

(b) Fences, barriers or other safety devices shall be erected around the utility structures at a height of at least eight feet (excluding underground facilities) unless the Planning Board finds that the applicant has adequately provided for screening and safety.

(c) The lot on which the facility is located shall be appropriately landscaped to minimize the impact on the neighborhood.

(6) **Quarry, sand or gravel pit (Mining Operations)**.

(a) All excavation, extraction, processing, storage and handling of materials shall be located at least 200 feet from any lot line.

(b) The facility shall be appropriately designed, screened and landscaped so as to minimize the impact on the neighborhood.

(c) All excavation slopes shall be adequately fenced, barricaded, signed and protected as determined by the Planning Board so as to preserve the public health and safety.

(d) An adequate land reclamation plan shall be required as an element of site plan review.

(e) Such operations shall also meet NYS Environmental Conservation Law 23-2703 (2).

(7) **Campground**.

(a) Each campground ~~shall have adequate access to a public highway,~~must have direct access to a public highway at two different entrance/exit points and each campsite shall be serviced from interior streets.

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(b) All structures and sites shall have a setback of 150 feet from all adjacent roads or easements serving as access to the campground, with landscaping adequate to provide screening from said access routes.

(c) The owner or manager of a campground shall maintain an office in the immediate vicinity of the campground and shall maintain accurate records of the names of campground residents; home address; and make, description, year and license or identification number of all recreational vehicles. These records shall be available to any law enforcement official or the Enforcement Officer.

(d) A minimum of 320% of the total area of the campground, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the campground owner.

(e) Campground sites shall be located on generally level terrain, not to exceed 3% slope that is well drained, free of flood hazards and clear of dense brush.

(f) The corners of each campsite shall be clearly and permanently marked, and each site numbered for identification.

(g) Each campsite shall be a minimum of 840 feet wide, with minimum footprint as stated below.

(h) Each camping unit shall be no closer than 510 feet to either side and rear of the campsite boundary and no closer than 20 feet from the front campsite boundary.

(i) Each campsite shall be separated from any campground Accessory Structure by a minimum of 5025 feet.

(j) Entrances and exits to the campground designed for safe and convenient movement of traffic into an out of the campground to minimize marginal friction with free movement of traffic on adjacent streets. There will be a least twoone designated, but not exclusive, emergency access road.

(k) Interior campground streets/roads/paths shall be properly designed and constructed for the safe transport of pedestrians or vehicles as allowed within the campground.

(l) No external appurtenances, such as carports, cabanas, patios, etc. may be attached to any camping unit.

~~(m)~~ Animals. ~~The Town Zoning Regulations shall be used.~~ No animal shall be kept or maintained on a campsite, except for usual household pets as permitted by the campground special use permit holder. Pets shall be kept on a leash or otherwise controlled so as not to become a nuisance. Proof of a valid rabies inoculation as appropriate, must be provided to the campground special use permit holder or campground manager before any pet is allowed onto the campground. Pet owners must properly dispose of any pet excrement.

~~(n)~~ Garbage and refuse disposal. No person shall burn trash, garbage or other like refuse on a campsite or otherwise on the campground. All such refuse shall be placed and kept in properly covered receptacles for the same, which shall be provided by the campground special use permit holder. No campground special use permit holder or campsite occupant shall permit the accumulation of garbage, litter or other junk materials within a campground. ~~The Town Zoning Regulations and NYSDEC Regulations shall be used.~~

~~(o)~~(m)

~~(p)~~(n) Fire pits. The Town Zoning Regulations, NYSDEC Regulations and NFPA Regulations shall be used. Nothing in this chapter shall allow open burning that is also not in compliance with current NYSDEC regulations.

~~(q)~~(o) Fire and emergency access. Every campsite shall be accessible by fire and

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emergency equipment and such access shall be maintained in good condition and free of obstacles.

~~(r)~~(p) Electric generators. Excluding times of a power outage of the electric utility provider to the parcel, the use of electric generators shall be limited to no more than six (6) hours per day between the hours of 9:00 a.m. to 11:00 a.m. and 5:00 p.m. to 9:00 p.m.

~~(s)~~(q) Each campsite will have a minimum of one parking spot contained in its footprint

~~(t)~~(r) Sewer, water and other utilities shall be provided in accordance with New York State Sanitary Code.

~~(u)~~(s) All campgrounds shall provide the following facilities:

i. One toilet for each sex for every 10 campsites or fraction thereof shall be provided within 300 feet of each such campsite.
ii. Lavatories or other hand washing facilities shall be provided for each sex at a ratio of one for each 15 campsites or fraction thereof without separate water and sewage hookups.
iii. Utility sinks shall be provided where they can be utilized for disposal of dishwater brought in by buckets.
iv. An adequate supply of potable water shall be provided within 200 feet of all campsites. One water spigot with soakage pit or other disposal facilities shall be provided for each 10 campsites without water facilities capable of providing a minimum of 150 gallons of water per day at a minimum pressure of 20 pounds per square inch. Where spigots and sewer hookups are provided at each site, a minimum volume of 100 gallons of water per site per day at a minimum pressure of 20 pounds per square inch shall be provided.
v. Only drinking water shall be supplied to accessory buildings or structures used by the occupants of the premises for culinary and lavatory purposes. Other water sources supplied to toilets and urinals shall not be physically connected with the drinking water supply or be available at any tap or connection for public use.
vi. Sewage treatment facility design shall be based on the water supply design flow, plus infiltration.

~~(v)~~(t) The owner shall provide a common area for the residents to dispose of garbage and household solid waste. The owner shall provide the details of such solid waste disposal plan as part of the site plan review. The owner shall take all necessary steps to control pests, insects and odors. All solid waste disposal facilities shall be adequately screened and maintained.

~~(w)~~(u) Each campsite shall be occupied by only one of the following structures, and the minimum site areas shall apply as follows:

i. Recreational vehicles/trailers and Park Models: 2,500 square feet.
ii. Cabins/cottages: 2,500 square feet
iii. Tents/camping sites: 1,500 square feet.

~~(x)~~(v) Detached structures shall be no closer than 20 feet to any other structure.

~~(y)~~(w) No alteration of the campground shall be made without approval of the Planning Board after site plan review.

~~(z)~~(x) The Enforcement Officer shall inspect each campground at least once each year.

~~(aa)~~(y) Additional SUP Criteria for Campgrounds in Corridor Overlay Zone

a. No Campsite shall be located within 500~~75~~ feet of any stream, brook, pond, wetland or Lake Ontario.
b. No Campsite shall be located within 200 feet of any adjacent property line.
c. No Campground shall be located within 2~~1~~000 feet of a Hotel/Motel, or another Campground.
d. Tents/camping sites are not allowed.
e. The Campground shall only operate ~~not more than ten (10) consecutive months of~~ April 30th-November 30th each calendar year.
f. The minimum lot size shall be ~~ten~~ fifty (50~~10~~) acres
g. There shall be a minimum 50~~25~~ feet of green space buffer surrounding the campground, in addition to other required setbacks. No campsite, or portion thereof, building, or structure shall be placed within this green space buffer area.
h. Water supply and sewerage disposal shall be designed and constructed in compliance with New York State Department of Health standards and New York State Department of Environmental Conservation standards, as applicable.
i. The maximum number of campsites may not exceed the number obtained by dividing the net parcel area in acres by 0.5 acres. The net parcel area shall exclude all buffering, screening and required setbacks.
j. Sewerage and water supply. No individual on-site sewage disposal system or water supply shall be permitted within a campground except to service a campground special use permit holder's or campground manager's dwelling. For the remainder of the campground, accommodations shall be provided and maintained for the satisfactory treatment and disposal of sewage. Campsites intended for use by recreational vehicles with integral sanitary facilities shall either be provided with 1) direct connection to an approved community sewage disposal system via individual sewage (i.e., both black water from toilets/urinals and grey water from sinks/showers) inlet piping; or 2) indirect connection to an approved community sewage dumping station via routine collection of sewage (i.e., both black water from toilets/urinals and grey water from sinks/showers) from on-board holding tanks by an acceptable campground-run scavenger service. Alternatively, recreational vehicles with integral sanitary facilities and on-board sewage holding tanks may directly connect to an approved community sewage dumping station periodically (typically when departing the campground) via available sewerage piping at the dumping station. All community sewage disposal and water supply systems for the common use of campground occupants shall be properly sized for the maximum anticipated usage and shall fully comply as evidenced by approved plans, with standards imposed by the NYSDOH, the NYSDEC, and the Town Code as applicable.
k. The minimum size for each campsite shall be 8~~5~~0 feet wide by ~~85~~ 100 feet deep and each camping unit shall be no closer than 15 feet to either side and rear of the campsite boundary and no closer than 50~~10~~ feet from the front campsite boundary.
l. The use of shielding and dark-sky compliant lighting to maintain consistency with the local neighborhood is required to prevent visibility of exterior lighting, signs, etc. allowed on the campground.
m. No recreational vehicle in excess of 38 feet in length shall be permitted in any campsite. ~~l.~~

(8) **Multiple dwellings**.

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(a) The front, rear and side of any principal building shall be no closer to the front, rear or side of any other principal building than 25 feet.

(b) There shall be provided on the site an area or areas devoted to the joint recreational use of the residents thereof. Such open space shall have a total area equal to at least 20% of the gross land area of the lot and shall be fully maintained by the owner of the dwellings. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreational purposes.

(c) The density of dwelling units shall not be more than four units per acre.

(9) **Keeping of Domestic Animals**.

The following requirements are exempted if the lot lies within an Agriculture District as defined by section 305A of the New York State Agriculture and Markets Law.

(a) The minimum lot size shall be one acre per proposed animal unit.

(b) The structure housing the animal(s) shall be no closer than 50 feet from any side or rear lot line.

(c) The area surrounding the structure housing the animal(s) shall be appropriately fenced to prevent wandering of the animals onto adjacent properties.

(10) **Gasoline Service Station and Motor Vehicle Repair Shop.**

(a) All gasoline service stations and motor vehicle repair shops shall be so designed and all petroleum product fuel pumps shall be so located as to require all servicing and/or repairing on the premises to be no closer to any street or front property line than 30 feet, and no closer to any other property line than 50 feet. No fuel pumps shall be located closer than 75 feet to any property line other than the front property line.

(b) Parking of motor vehicles to be serviced shall be confined to the lot on which the use is allowed.

(c) No inoperative motor vehicle or motor vehicle awaiting repairs shall be kept on the premises for longer than two weeks unless enclosed within a structure.

(d) All servicing materials, waste material, used or discarded parts and tires shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.

(e) Entrance and exit driveways shall be located at least 15 feet from any side or rear property line. No motor vehicle shall be parked within 15 feet of the street right of way.

(f) All gasoline service stations and motor vehicle repair shops shall have landscaping and be screened and/or buffered from all adjacent properties, side and rear, by appropriate

plantings and/or aesthetically designed fencing.

(11) **Animal care facility including kennels**.

(a) All buildings, structures and accessory uses involved in the treatment, care and housing of animals shall be located no closer to any street or front property line than 50 feet.

(b) All wastes and remnants shall be disposed of in an environmentally safe manner that does not pollute the land, air or water, in accordance with the regulations of the New York State Departments of Health and Environmental Conservation.

(c) No noise noxious odor, waste or unsightly appearance shall be permitted to affect any nearby or adjacent property.

(d) Adequate off-street parking shall be provided.

(12) **Shopping Centers**.

(a) Off-street parking provisions shall meet the combined requirements of all individual participating uses proposed. In addition engineered plans assuring adequate drainage so as to prevent flooding on- or off-site shall be submitted.

(b) Off-street loading requirements shall be provided in addition to (1) above, and shall meet the requirements of 150-28 for each constituent use proposed.

(c) No building shall be placed closer to any street than 100 feet. No parking area shall extend closer to any street than 20 feet, or closer to any other property line than 50 feet. The boundaries along all side and rear property lines shall be appropriately landscaped, planted and seeded for a depth no less than 15 feet adjacent to the structures or parking lots, whichever shall extend the furthest. All front boundary areas shall be landscaped, planted and seeded.

(d) No shopping center shall be constructed closer than 100 feet to the nearest property line, an no shopping center or parking lot shall be located closer than 200 feet to the nearest residential building.

(e) Both onsite and entrance/exit roadways shall be so designed as to minimize traffic hazards. In no instance shall any entrance or exit road be closer than 100 feet to the nearest street corner or road intersection. All access plans shall be approved by the appropriate State, County and Town highway authorities.

(13) **Adult Use**.

Adult uses shall be only permitted in the AR-40 zoning district and must meet the following conditions:

(a) Such uses may not be located within three hundred (300) feet, measured from lot line to lot line, of churches, schools, parks, playing fields or other areas in which groups of minors regularly congregate.

(b) No such use may be located on a New York State Highway.

(c) Such uses shall not be located within fifty (50) feet of any residential lot line.

(d) Such uses shall not be located within a one thousand (1000) foot radius of another such use.

(e) One-on-one interaction between patrons and employees of an adult use facility which features activities such as encounter booths, massage parlors or escort services is prohibited.

(f) Children under the age of 18 years shall not be allowed in any adult use facility, either as a patron, employee, or owner.

(g) Only one (1) sign shall be permitted and visible from the exterior of a building which is occupied by an adult use, and such sign shall be no larger than four (4) square feet and must be attached to the building and not on its roof. Such sign shall not consist of any material other than plain lettering. No sign shall have any photographic or artistic representation whatsoever thereon.

(h) All building openings, entries, windows, doors, etc. shall be located, covered or screened in such a manner as to prevent a view into the interior from the outside of the premises. Windows shall be of opaque glass.

(i) Adult uses shall be fully screened from all residential properties by fencing or hedges at least eight (8) feet in height.

(j) Outdoor lighting shall be limited to a light by the entrance and a shielded light on the structure. No colored lights are allowed.

(14) **Big Box Retail or Large Product Retail Establishments.**

(a) Parking lots should not be placed entirely in front of the building. They should have at least 60 percent of the parking spaces to the side or rear.

(b) The number of driveway entrances and exits should be designed and located to avoid interference with traffic flow along major roads. When possible, locate vehicle entries along side roads.

(c) A variety of roof types are encouraged. Distinct and interesting rooflines instead of flat roofed structures are recommended, to break up the large box appearance.

(d) The building should contain an identifiable base (along exterior walls), extending two or more feet up from the finished grade. The base materials should be highly resistant

to damage, defacing, and general wear and tear. Precast decorative concrete, stone masonry, brick and commercial grade ceramic tile are examples of acceptable base materials.

(e) Exterior wall treatments such as arcades, porticos, insets, colonnades, and wing walls should be used to successfully mitigate the appearance of the typical big-box building appearance.

(f) The base of the building should be surrounded on three of the four sides by landscaping or enhanced pedestrian pathways.

(g) Outdoor storage areas should be consistent with the architecture of the primary building. The outdoor display of merchandise in front of the business, or in any other area not expressly designed for such display is prohibited.

(h) Loading should be located and designed to minimize direct exposure to public view. These areas should be screened with landscaping to reduce visual impacts.

(15) **Convenience Stores**

(a) Structures on the site such as the building and canopy should be grouped together and\or integrated into the overall design of a site.

(b) When commercial development abuts a convenience store, two-way vehicular access that is integrated with the adjacent development should be provided.

(c) A fuel delivery truck lane should be provided through the site with the proper turning radius to unload fuel to the underground tanks.

(d) Landscaping and buffering along the perimeter of the project site shall be required to reduce visual impacts to neighboring uses and public roadways.

(e) The siting of tire air filling stations, carwash bays, drying and vacuuming areas should not conflict with on-site vehicle circulation. These areas must also be located and designed to mitigate noise impacts on surrounding properties, especially residences.

(f) The roofs of structures, including pump canopies, should incorporate full roof treatments, with a low to moderate pitch. Flat roof structures or mansard roof applications are strongly discouraged.

(g) Pump island canopies should be designed with a hip, gable, barrel vaulted, or other roof system to match the architectural design of primary structures on the site.

(h) Parking for on-site retail uses should be located in close proximity to the primary customer entrance.

(i) Pedestrian pathways should be provided from required on-site parking to the primary customer entrance.

(j) The location of filling pumps, carwash bays, or other on-site facilities should be designed to avoid vehicle stacking or overflow on adjacent roads.

(k) The base of the building should be surrounded on three of the four sides by landscaping or enhanced pedestrian pathways.

(16) **Mixed Use Projects**

(a) Separate building entrances should be provided when residential and commercial uses will be in the same structure.

(b) Site access drives and parking facilities for residential uses and commercial uses should be separated.

(c) Access drives should incorporate distinctive architectural elements and landscaping features to differentiate access to commercial and residential parking areas.

(d) Loading areas and refuse storage facilities should be placed as far as possible from residential units and be completely screened from adjacent residential development.

(e) Architectural style and use of materials should provide compatibility throughout the entire mixed-use project.

(f) The placement of noise generating equipment such as refrigeration units, air conditioning, and exhaust fans should consider impacts to noise-sensitive uses.

(g) Parking lot security lighting for the commercial uses should not spill over into the residential areas.

(17) **Self-storage Facilities**

(a) Storage areas and mechanical equipment should not be located near or oriented toward residences, residential areas or neighborhoods.

(b) Sufficient space should be provided between drive aisles and vehicle loading and unloading areas.

(c) Full roofs or the appearance of full roofs is encouraged. The use of exterior elevation windows is encouraged, even if these windows are non-functional.

(d) Potentially noisy activities, such as automated gates, delivery and unloading areas should not be oriented toward residential development, unless appropriate screening is provided.

(e) Access control gates should be transparent, and provide a clear line of sight at access locations.

(f) Outdoor storage areas should include screening to limit the public's view from adjoining properties through appropriate landscaping and buffering techniques.

(g) Security lighting should not direct glare onto adjoining properties and the public roadways. It should be directed downward using dark-sky compliant fixtures.

(18) **Drive-Through Businesses**

(a) The primary visual presence along the main road frontage should be the building, not parking spaces or a drive-through lane. Buildings should consider placement where they are "built-to" the minimum front setback lines.

(b) Outdoor eating areas are encouraged as feasible.

(c) Menu board speaker placement should avoid nearby residential areas limiting their noise exposure. Drive-through aisles, therefore, should be located away from residences.

(d) The main entrance should be sited a maximum distance from drive-through aisles.

(e) Drive-through lanes should accommodate vehicle stacking at menu board and at pickup windows to ensure adequate circulation.

(f) Drive-through aisles should be screened from the view of street frontage and adjacent parking areas. Landscaping, low wood, masonry or stone walls, and/or thick shrubbery should be utilized.

(g) Drive-through aisles should be separate and distinct from parking spaces.

(h) Buildings should incorporate a full roof with any roof top equipment hidden from view.

(i) Franchise identifying features should only be located on the main structure.

(j) Exterior doors, equipment rooms, service/employee entries should provide complementary architectural treatment.

(k) Adequate space should be provided for truck loading needs. Loading and unloading areas should not interfere with on-site vehicular and pedestrian circulation.

(19) **Agricultural Use.**
(20) **Church.**
(21) **Digital Signage, LED.**
(22) **Funeral Home.**
(23) **Institutional.**

(24) **Light Industrial.**
(25) **Professional.**
(26) **Recreation, Outdoor**

(a) The Planning Board shall take into consideration the prevailing NYSDOH requirements and the proposed project's need for sewer and water in determining if the board should issue a special use permit.

(b) Recreational Outdoor facilities shall meet all setbacks of the underlying districts, in addition to the following: 75 feet from any State or County highway, 50 feet from any other road. If located within 200 feet of a residential structure, it might be screened and/or buffered to prevent dust, noise, odors and lighting glare from adversely affecting nearby residential properties.

(c) Entrances and exits to the Recreation Outdoor designed for safe and convenient movement of traffic into an out of the Recreation Outdoor to minimize marginal friction with free movement of traffic on adjacent streets. There will be a least one designated, but not exclusive, emergency access road.

(d) Interior streets/roads/paths shall be properly designed and constructed for the safe transport of pedestrians or vehicles for the designated use.

(e) The site plan shall provide common area(s) for the disposal of garbage and the details of such solid waste disposal plan as part of the site plan review. The owner shall take all necessary steps to control pests, insects and odors. All solid waste disposal facilities shall be adequately screened and maintained, including Portapotty.

(f) Access shall be allowed by fire and emergency equipment and such access shall be maintained in good condition and free of obstacles.

(g) Certain Recreational Outdoor uses require more parking than the standard ratios listed in Schedule III, of the Town's Zoning Law, such as athletic fields, swimming pools and/or beaches. The Planning Board should follow established ratios and apply to each specific outdoor recreation use proposed and determine an appropriate number of parking spaces required, if they concur that the requirements listed in Schedule III are not sufficient. The agreed upon number of required parking spaces shall be identified in the Special Use Permit approval.

(h) All proposed outdoor lighting and signage shall meet the following criteria:
   i. Does not spill over onto the public roads, nor cause glare to drivers,
   ii. Is Dark Sky compliant; protects neighbors and the night sky from nuisance glare and light trespass
   iii. Is energy efficient in design and operation, field lighting shall be terminated within ~~120~~ 20 minutes of the end of any evening event,
   iv. Protects the visual character of the Town's waterfront areas.

(i) Only flag poles flying the American flag can be illuminated after 11:00 pm; maximum of 10,000 lumens.

(j) Existing vegetation shall be preserved to the extent practicable. Adjacent residential properties shall be screened as determined by the Planning Board under the criteria set forth in Schedule IV.

(k) Additional SUP Criteria for Recreation, Outdoor in the Corridor Overlay Zone

~~a.~~ a. Fairs and Festivals shall only be transient in nature for a period of sixteen (16) consecutive weeks per year, and incidental to the Principle Use~~.~~

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b. Parking Lots shall not be visible from Lake Ontario or adjoining parcels.

~~b.~~a. All development should consider a minimum of 25% open space incorporated into the site plan (excluding roads, parking lots and the like).

(27) **Recreation, Indoor.**
(28) **Restaurant**
(29) **Self-Storage.**
(30) **Senior Citizen home.**
(31) **Warehouse**.
(32) **Marina – Small**

(a) Marina, Small are only permitted in the Harbor District and Island District with issuance of a Special Use Permit from the Town Planning Board.
(b) Certain elements of some marinas may be subject to US ACE review and approval.
(c) The site of a marina shall not make significant alterations or disturbances of existing natural topography, vegetation, or natural features like streams, wetlands or bedrock outcroppings.
(d) The marina should be adequately screened from adjacent residential uses as determined by the Planning Board.
(e) No dock shall be located closer than 50 feet from a side residential property line (25 feet from a nonresidential side lot line).
(f) In interpreting the above listed setback requirements; the yard adjacent to the Lake is considered the front yard.
(g) All waste materials shall be stored within a structure or enclosed within fencing so it's not visible from off the property.
(h) On-site parking shall be adequate to accommodate all traffic generated by the marina during a normal peak day. All parking spaces shall be located within 600 feet of the marina pier or launch ramp.

(33) Marina - Commercial

(a) Marina, Commercial are only permitted in the Harbor District with issuance of a Special Use Permit from the Town Planning Board.
(b) Certain elements of some marinas may be subject to US ACE review and approval.
(c) The site of a marina shall not make significant alterations or disturbances of existing natural topography, vegetation, or natural features like streams, wetlands or bedrock outcroppings.
(d) The marina should be adequately screened from adjacent residential uses as determined by the Planning Board.
(e) No dock shall be located closer than 50 feet from a side residential property line (25 feet from a nonresidential side lot line).
(f) Any servicing or repair shall be located at least 50 feet from a nonresidential side lot line and 100 feet from a residential use.
(g) Fuel pumps shall be set back at least 75 feet to a nonresidential side yard and 100 feet from a residential use lot line.
(h) Sanitary pump outs shall be setback at least 75 to a nonresidential side yard and 100 feet from a residential use lot line.
(i) In interpreting the above listed setback requirements; the yard adjacent to the Lake is considered the front yard.
(j) All servicing materials, waste materials or used parts shall be stored within a structure or enclosed within fencing so it's not visible from off the property.

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(k) The marina shall provide one toilet fixture per sex for each 20 slips, or fraction thereof. Such toilet facilities shall meet local and state NYSDOH and NYSDEC regulations.

(l) All fuel tanks shall be installed and maintained in conformity with standards of the UFP and B code and shall conform to all State and federal requirements of NYS DEC, EPA and other appropriate agencies, and all relevant provisions of this chapter. All such fuel tanks shall be so maintained and operated that no fuel overflow or spillage is allowed and adequate measures for containment are in place if overflow, or spillage, were to occur.

(m) All pump out tanks and other facilities for the disposal of waste and sewage shall be designed, constructed and maintained in conformity w the requirements of NYS DOH, DEC and the relevant provisions of this chapter. No such pump out tank shall at any time be drained, emptied or allowed to overflow and adequate measures for containment are in place, if overflow, or spillage, were to occur

(n) On-site parking shall be adequate to accommodate all traffic generated by the marina during a normal peak day. All parking spaces shall be located within 600 feet of the marina pier or launch ramp.

ARTICLE VI

Supplemental Requirements

§ 150-21. Applicability.

In all zoning districts the following requirements and standards shall apply whether the use is permitted by right or upon special use permit or site plan approval. In the case of special permit uses, these standards and requirements must be reviewed as part of the special use zoning permit approval process. In the case of permitted uses, the Enforcement Officer is responsible for determining that these requirements and standards are met.

§ 150-22. Number of principal uses per lot.

There shall be one principal use per lot as defined herein when the use is residential. Multiple nonresidential uses of a single lot may be approved by special use permit by the Planning Board when such uses conform to the Comprehensive Plan and the requirements of this Chapter as determined by the Planning Board. If the lot resides in two different zoning districts either prior to, or as a result of lot assembly, the stricter of the two zoning districts shall apply, regardless of whether the lot is conforming or nonconforming.

§ 150-23. Signs.

A. Exempt signs. A permit shall not be required for the following signs. All other signs require a zoning permit. Exempt signs are subject to the provisions of Subsection C of this section.

(1) Temporary signs - all temporary signs must be placed so as to not impede traffic flow or visibility

(a) Special event signs: Two temporary special event signs advertising events, activities or other similar instances that will terminate on a set date. Yard sales, garage sales,

and similar on-premises sales shall be considered temporary activities, and, as such, signs advertising these events shall fall under the requirements of this section. Such signs shall be removed by the sponsor of the event, or those who placed the sign, within three days of the event's conclusion. Such signs shall not be used more than 60 days per calendar year per lot. Such signs shall be freestanding and limited in size to that allowed in the zoning district. In addition, off-premise signs advertising such property will be allowed at intersections and must be placed so as not to impede traffic or traffic view.

(b) Real estate signs: One per street frontage advertising the sale or lease of the property on which displayed. In addition, one off-premise sign advertising such property will be allowed at intersections and placed so as not to impede traffic or traffic view. All such signs shall be removed within five days after the sale or lease has been consummated. Temporary directional signs for open house events may be placed, with permission, on private property at intersections on the day of such events. **(Amended 5-11-1994 by L.L. No. 1-1994)**

(c) Interior signs. Signs placed inside of a window of a building that are visible from the exterior of the building do not have to meet the requirements of Subsection B of this section, except that such signs shall comply with Subsection C of this section, where applicable.

(2) Flags. Official flags of governmental jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premise activities or entities shall be considered exempt signs.

(3) Plaques. Commemorative plaques placed by historical societies or agencies shall be considered exempt signs.

(4) Other exempt signs shall include the listing below, however none shall be allowed to be placed so as to impede traffic or traffic view:

(a) Private signs directing and guiding traffic and parking on the subject lot, but bearing no advertising matter.

(b) Signs not exceeding one square foot in area bearing only property numbers, post office box numbers or names of occupants of residential property.

(c) Signs of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs and all signs erected or required by a public officer in the performance of a public duty.

(d) "No Hunting," "No Trespassing", "No Dumping," and signs of a similar nature shall be limited to two square feet in size.

(e) Signs advising the public of a hazardous condition.

(f) Holiday decorations, including lighting, may be displayed without a permit for a

period not to exceed 60 days.

(g) Political signs advocating a candidate, slate of candidates, political party or committee, or the defeat or adoption of a proposition in any election. Such political signs shall be removed by the person or entity placing or causing such signs to be placed within 10 days after the election, pursuant to NYS Elections Law.

B. Prohibited signs. The following signs shall not be allowed in any zoning district:

(1) All portable signs, except those enumerated in Subsection A of this section.

(2) Any sign that does not qualify as an exempt sign under Subsection A or does not meet the general sign requirements contained in Subsection C.

~~(4)~~ Any sign which moves or has flashing lights (except Digital LED signs), unless required or suggested by a government entity for public safety purposes.

C. General requirements

(1) All signs shall be erected and constructed in a fashion so as not to obstruct traffic, cause visual blight, nor detract from the value of property adjacent to that property upon which said sign is erected.

(2) No signs shall be placed, painted or drawn upon trees, rocks, or other natural features or on utility poles, bridges, culverts, towers, unregistered trailers, vehicles, or watercraft (except for for-sale signs of those items) or similar structures.

(3) All signs, together with their surfaces shall be kept in good repair. The display surfaces shall be kept neatly painted at all times.

(4) No luminous sign, indirectly illuminated sign or other lighting device shall cast glare or undiffused beams of light upon any road, highway, sidewalk or adjacent premises, or cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall employ a mirror or mirror-like service.

(5) Signs may be placed in required yards.

(6) Any business, enterprise, institution or other advertising entity that ceases operations shall remove its signs within 90 days of such cessation. This provision shall not apply to a seasonal business which was open for business at least 10 weeks within the past 365 days.

(7) Any nonconforming sign erected subsequent to the most recent effective date of this chapter, or an amendment thereto, shall be replaced by a sign conforming to the regulations for the zoning district in which the sign is located. Signs in existence prior to the date of this chapter will not be subject to regulations enacted after the date of their installation.

(8) In the event that a standard established in this section conflicts with another standard in this chapter, the more restrictive standard shall apply (e.g., home occupation).

(9) No sign shall project into the public right-of-way of any highway without the specific written approval or consent of the authority having jurisdiction over the road or highway.

(10) No off-premise sign shall be visible to the public traveling on any state highway within the town, except for signs exempt pursuant to Subsection A of this section or signs approved or leased by the New York State Department of Transportation which are located within the state highway's right-of-way.

(11) Commercial off-premise freestanding signs shall not exceed 16 square feet per side in surface area, or as otherwise limited by the Zoning District.

(12) All signs, unless otherwise specified, shall comply with the following dimensional requirements:

(a) Freestanding signs (those not attached to or a part of another structure) shall not exceed the following:

DISTRICT	HEIGHT (above grade)	SQUARE FEET
LF	**6**	**6**
I	**10**	**6**
AR-40	**10**	**32**
B	**10**	**32**
BR	**10**	**32**
R-15	**6**	**6**
H	**6**	**6**

(b) Commercial Signs which are part of a building's surface or attached to the building's surface shall not exceed the height of the building and shall not exceed the following:

DISTRICT	SQUARE FEET
LF	**6**
I	**24**
AR-40	**48**
B	**32**
BR	**32**
R-15	**24**
H	**24**

§ 150-24. Swimming Pools

A. Temporary or permanent above ground pools measuring less than 4 feet in height must be equipped with an fence or other restraining structure to bring the total height to four feet which can be secured to restrict access when the pool is not in use.

B. In-ground pools must be enclosed by a fence at least four feet high and have an entrance gate or other restrictive structure which can be secured to restrict access when pool not in use.

C. Swimming Pools and their enclosures may be located within a required side or rear yard, but no closer than 10 feet to a lot line.

D. Placing a swimming pool in a front yard is discouraged, but if no other option is available, the pool placement must meet the setback requirements of Article IV, Section 150-10 of the zoning district in which the lot resides.

§ 150-25. Fences, walls and hedges.

Fences, walls and hedges which are not regulated in other sections of this chapter are subject to the following requirements. However, fences erected as part of an agricultural use for the confinement of animals shall not be regulated. Notwithstanding the provisions of Sections 150-18 permits for fences may be issued without site plan review on non-conforming lots.

A. No fence shall exceed four feet in height in the required front yard of any building, or six feet in height elsewhere.

B. In all zoning districts fences and hedges over 3 1/2 feet in height above street level are not permitted in a triangular area of any corner lots. This area is bounded by lines along both streets to points 40 feet distance from the intersection of the road rights-of-way and a line connecting these two points.

C. Fences along the front or side lot lines in waterfront lots shall be no higher than three (3) feet within seventy-five (75) feet of the front lot line.

D. The side of the fence facing away from the fence owner's property shall have a finished quality.

E. See also Sections 150-39 P, 150-41 C(2), D(2), F(2), G(3), J(3), K(6), and N(9).

§ 150-26. Sewage disposal systems.

All on-site sewage disposal systems shall meet the requirements of New York State Department of Health Law (10 NYCRR, Appendix 75-A) and the New York State Uniform Building and Fire Code.

§ 150-27. Parking Requirements.

A. New, expanded or converted parking areas for all special permit uses shall be subject to site plan review by the Planning Board (see Article VII). All such areas shall be constructed of all- weather materials (e.g., gravel, asphalt, concrete).

B. The requirements for parking facilities are tabulated in Schedule III, Parking Standards.

C. Special parking requirements in the Harbor District. In the Harbor District waterfront lots must comply with the following special parking requirements. The rationale for the following requirements is that it is recognized that parking areas have the potential to obstruct visual access to the water and to generally detract from the character of the Harbor District.

(1) All uses must conform to the use-specific off-street parking requirements contained in this section.

(2) Parking is not permitted on or adjacent to waterfront lots except in that area between the principal building and the street. Parking will not be allowed between the street and any required side yard.

D. Parking space dimensions. Each parking space shall measure at least 10 feet by 20 feet, exclusive of necessary space devoted to turning maneuvers, ingress or egress.

E. The Planning Board may alter these requirements on an individual basis if the applicant proves to its satisfaction that the use does not require the full number spaces.

F. Uses not included in this section are required to have adequate parking, according to the evident need. The Planning Board has the authority to require specific numbers of parking spaces for unlisted uses. In doing so, the Board shall use its sound judgment, personal experience and information gathered through the public hearing process.

§ 150-28. Off-street loading requirements.

A. New, expanded and converted commercial, industrial or other uses involving receipt or distribution of wholesale shipments of goods shall provide off-street loading facilities subject to site plan review by the Planning Board. The following shall be used by that Board as standards to assess the adequacy of planned facilities.

Floor Area (square feet)	**Number of Berths**
4,000 to 25,000	1
25,001 to 40,000	2
40,001 to 60,000	3
For each additional 50,000	1

B. The loading berth required in each instance shall not be less than 12 feet in width, 35 feet in length, and 14 feet in height, and may occupy all or any part of any required yard. Such space may also be a part of a required parking area.

C. Where the use, traffic generation or function of a site is such that the use can show that the number of berths required is not justified, the Planning Board may waive these requirements.

§ 150-29. Home occupations

A. No home occupation shall be permitted that:

(1) Generates traffic, parking, sewage, noise, or water use in excess of what is typical in the surrounding residential neighborhood or zoning district;

(2) Creates a hazard to person or property, results in electrical interference, or becomes a nuisance;

(3) Employees more than one nonresident person working on the premises at any given time.

(4) Does not have adequate onsite parking for employees or patrons, as allowed by this law;

(5) Requires hours which are open to the public outside 8AM to 6PM;

(6) Requires delivery of goods for purposes of the Home Occupation outside 8AM to 6PM, or size and type of delivery vehicle inconsistent with normal vehicular traffic in the neighborhood;

(7) Creates noise audible beyond the boundaries of the parcel, resulting from the Home Occupation, and/or inconsistent with the neighborhood;

(8) Creates odors or lighting glare, resulting from the Home Occupation, that would be inconsistent and/or detrimental to the neighborhood.

B. The following are permitted home occupations provided they do not violate any of the provisions of the previous paragraph;

(1) Dressmaking, sewing, and tailoring;

(2) Artistic painting, sculpturing, or writing;

(3) Telephone answering;

(4) Home crafts, including model making, rug weaving, lapidary work, cabinet making, ceramics, and similar crafts;

(5) Tutoring;

(6) Home cooking and preserving;

(7) Computer programming, data processing, accounting, and similar activities

(8) Single-chair hairdressing and barbering.

(9) Conducting business arrangements by telephone, computer or in person related to a business principally conducted off-premises and storing equipment and supplies in an enclosed structure, to be used in a business principally conducted off-premises. **(Amended 6-14-1995 by L.L. No. 3 - 1995)**

(10) Daycare facility.

C. The following are prohibited as home occupations

Figure 1:

(1) Social Organizations;

(2) Restaurants;

(3) Kennels;

(4) Motel/hotel;

(5) Motor vehicle or boat repair shops;

(6) Health clinics;

(7) Animal hospitals;

(8) Meat processing;

(9) Funeral homes or mortuaries.

D. Any proposed home occupation that is neither specifically permitted by paragraph B nor specifically prohibited by paragraph C shall be considered a special permit use, and shall be granted or denied site plan approval by the Planning Board in accordance with Subsection A and Article VII.

E. An owner of a home occupation may display one on-premise sign not to exceed four square feet in surface area informing the public of the home occupation.
(Amended 6-14-1995 by L.L. No. 3-1995)

§ 150-30. Road and road access.

A. All roadways that are constructed by private individuals or enterprise, and which serve or are intended to serve the public as a public thoroughfare shall meet town highway and road standards as set forth by the Henderson Town Board.

B. Curb cuts for all driveways and roadways intersecting or gaining access to town, county or state roads shall be approved by the appropriate highway authority. The number of such curb cuts shall be limited to one for every 100 feet of public road except upon review and approval of the Planning Board.

C. In the Open Development District Overlay District, access to public roads by means of easements or rights-of-way in common with others shall be deemed to comply with the requirements of Town Law, Section 280-a, for the issuance of a building permit.

§ 150-31. Drainage, soil erosion and sedimentation control.

To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting manmade drainage ways, and land surfaces shall remain undisturbed.

A. All non-farming earthmoving activities within the Town shall be conducted in such a way as to prevent accelerated erosion and the resulting sedimentation. To accomplish this, any person engaged in earthmoving activities shall effectively develop, implement and maintain erosion and sedimentation control measures. These measures should comply with the New York Guidelines for Urban Erosion and Sediment Control established by the USDA - Soil Conservation Service.

B. Upon completion of the project, all areas which were disturbed by the project shall be stabilized so that accelerated erosion shall be prevented. Any necessary erosion and sedimentation facilities shall be maintained until stabilization is completed. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed.

§ 150-32. Drainage systems.

A. To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting manmade drainage ways, and land surfaces shall remain undisturbed.

B. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

C. Provisions for storm drains shall safely retain storm water or adequately carry and discharge accumulated runoff into drainage channels, storm sewers or natural watercourses so that it does not cause increased damage or increased flooding downstream.

D. Whenever the Planning Board in its site plan review requires an engineered drainage plan, such plan shall be based on, and shall safely accommodate, a fifty-year frequency rainstorm.

§ 150-33. Well and septic tank covers.

All new well covers and septic tank covers shall be made of a substance not subject to rot or decay (e.g. concrete) and have sufficient strength to prevent persons or animals from falling through said covers.

§ 150-34. Recreational vehicles.

A. One and only one recreational vehicle may be stored outside (unoccupied and not used for living quarters) as an accessory use to a principal building existing on the same lot, provided that the recreational vehicle bears a current NY State Inspection Sticker or a valid out-of-state license and is owned by the real property owner or his tenant, or by a family member residing on the lot.

B. No use of a recreational vehicle for temporary living quarters shall be permitted in any zoning district until a recreational vehicle permit has been issued (fee to be determined by the Town Board), by the Enforcement Officer upon evidence that the owner has met the following requirements:

(1) Adequate potable and sanitary water supply are provided.

(2) Sewage disposal from such vehicles shall be disposed of in an environmentally acceptable manner (either by temporary connection to an approved septic system, by storage tank to be pumped out at an approved disposal station, or by approved self-contained maceration and incineration system) in accordance with the regulations of NYS Dept. of Health.

(3) A recreational vehicle permitted for seasonal use (subsection C of this section) shall not be located within the required yards as established by the setbacks for primary structures zoning district in zoning districts LF and H.

(4) The recreational vehicle bears a current NY State Inspection Sticker or a valid out of state license.

(5) The permit shall be displayed so as to be visible from the outside of the vehicle at all times.

C. Seasonal permits may be issued by the Enforcement Officer in all zoning districts for one and only one recreational vehicle owned by the owner of a lot or owned by a member of his immediate family for use on said lot for no more than 150 days in any given calendar year. No accessory building or structure other than a storage shed or garage shall be permitted if the recreational vehicle is the principal use of the lot. At the end of the 150 day use, the vehicle must meet subsection A. above.

D. Short term use, not to exceed 14 days, of a single recreational vehicle for temporary living quarters shall be allowed to accommodate visitors of the owner of the lot (without a seasonal permit).

E. Parking of one or more recreational vehicles on the premises of a hotel/motel or other commercial uses incidental to such use shall be permitted, provided that they are not occupied for temporary living purposes.

F. Except as otherwise expressly provided in this section, a recreational vehicle may not be used for temporary living quarters except in an approved campground, or pursuant to subsection C or D.

G. Recreation vehicles shall be allowed to remain on site year-round on a campsite in an approved campground.

§ 150.34.1 Manufactured homes.

All manufactured homes shall meet the following requirements:

(1) No manufactured home shall be allowed unless it bears a date plate and a manufacturer's label, affixed in the manufacturing facility, which certifies that it is in compliance with the Federal Department of Housing and Urban Development manufactured home construction and safety standards in force at the time of manufacture. Manufactured homes shall also bear an insignia of approval issued by the State Fire Prevention and Building Code Council. Notwithstanding the foregoing, no manufactured home shall be allowed unless it meets or exceeds the United States Department of Housing and Urban Development Manufactured Home Construction Safety Standard (24 CFR 3280).

(2) No manufactured home less than 720 square feet in gross floor area shall be installed or moved to a different lot.

(3) Where manufactured homes are provided with installation instructions, any foundation or support will be constructed to support the loads specified in the manufacturer's instructions. Where manufactured homes are not provided with installation instructions, they shall be supported by a permanent foundation designed by a registered engineer or architect.

(4) Well anchored tie-downs to the manufacturer's specifications at least on each comer of the foundation are required.

(5) All manufactured homes shall be provided with a skirt of material similar to the siding on the main building to yield a finished exterior appearance and to screen the space between the manufactured home and the ground. All additions, excluding decks and patios, to manufactured homes shall be sided with a material compatible in terms of composition and aesthetics with the siding of the manufactured home.

(6) No more than one manufactured home may be placed on a lot, unless said lot is a legal manufactured home park or a legal campground.

(7) A manufactured home shall automatically be classified as a nonconforming structure when it reaches the age of 15 years after the date of original construction and at such time shall be subject to the provisions of § 150-12 of Article IV.

(Amended, R 2019-12-17-079, 12-19-2019)

ARTICLE VII Site Plan Review

§ 150-35. Purpose.

It is recognized that there are certain land uses that are likely to result in adverse impacts upon surrounding properties unless certain design features are employed. It is further recognized that a particular lot possesses a set of physical characteristics that detract from or add to that lot's development potential. The purpose of the site plan review provisions of this chapter are to allow flexibility in both the review and development of particular uses. In so doing these provisions ensure that the potential for adverse impacts to surrounding properties are minimized and that the physical characteristics of a particular lot are fully considered in the project design, prior to permitting of the project.

§ 150-36. Applicability and authorization.

A. Applicability. The provisions of this article apply to all uses requiring special use permits and to all other uses requiring site plan review.

B. Authorization. The Town Board hereby authorizes the Planning Board to review and approve, approve with modifications or deny site plans.

§ 150-37. Procedure.

A. The applicant shall request a presubmission conference with the Planning Board prior to formal application submittal except when site plan review is required in accordance with Article V, Section 18 of this Chapter. This conference will be used to discuss site plan review procedure/criteria and other zoning matters.

B. Applications for site plan review shall be submitted to the Planning Board at their regularly scheduled meeting(s).

C. Within sixty-two (62) days from the receipt of a completed application by the Planning Board a public hearing shall be held on the proposal to entertain public comment. A five (5) day advance public notice of the hearing shall be published in the official newspaper.

D. The final decision by the Planning Board must be made in writing, within sixty-two (62) days following close of the public hearing. Notwithstanding the foregoing provisions the time in which the Planning Board must take action may be extended by mutual consent of the applicant and the Planning Board. All decisions shall be immediately filed in the Office of the Town Clerk and a copy mailed to the applicant within five (5) days after the final decision.

E. The Planning Board may attach additional conditions to the proposed development, providing they are in keeping with the intent and goals of this chapter.

F. The Planning Board shall refer all site plans to the Jefferson County Planning Board for review when required under General Municipal Law Article 12-B.

§ 150-38. Information to be submitted by applicant.

A. Application for site plan review shall be made to the Town Planning Board by all owners of the subject property. The applicant shall submit all information necessary for the Planning Board to review the proposal.

B. Unless specifically waived by the Planning Board, the following information shall be provided by the applicant, per local, county, and state rules and regulations:

(1) Name and address of all owners and of the persons or firms responsible for the preparation of all drawings, maps or depictions.

(2) All information required pursuant to § 150 15.J. of this chapter.

(3) Maps or drawings of the proposed buildings, structures, infrastructure, landscaping, and other improvements which show in detail:

(a) Date, magnetic and approximate North point, written and graphic scale.

(b) Boundaries of the lot plotted to scale, including distances, bearings and areas.

(c) Location and ownership of all adjacent lands.

(d) Location, name and existing width and right-of-way of adjacent roads.

(e) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use located either on the site or on adjoining property.

(f) Location, size and detailed design of the following: existing and proposed buildings, driveways, roads, curb cuts, parking, outdoor storage, sidewalks or pedestrian paths, drainage facilities, utilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping and screening.

(g) Facade drawing with elevations of all proposed buildings from finished grades.

(4) Written plans for controlling soil erosion and sedimentation during construction (per NYS DEC Environmental Conservation Law Article 17, Titles 7, 8 and Article 70).

(5) Written and depicted plans for grading and drainage showing existing and proposed contour lines at one-foot intervals or less, and also showing all high-water levels, floodplain and other natural features.

(6) Written designation of the amount of gross floor area (measured from interior dimensions) proposed for each nonresidential use.

(7) An environmental assessment form (EAF) or draft environmental impact statement (EIS)

and other documents where required pursuant to 6 NYCRR Part 617 (SEQRA).

(8) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any federal, state or county permits required for the project's execution.

(9) All applicants shall deposit with the Town Clerk sufficient security to cover the anticipated administrative expenses of the town as provided in § 150-13K of this chapter.

(10) Location and design of any structures, facilities and processes that potentially impact on the quality of the ambient air, the quantity of the impact and the mitigating measures that will be taken to reduce the adverse impacts on the quality of the ambient air.

(11) Traffic volume generation and circulation plans both on and off the proposed project site.

(12) Written projected construction schedule and staging phases with timetable for implementation.

§ 150-39. General performance site plan review criteria.

The Planning Board's review of the site plans shall include, where appropriate, the following considerations:

A. Status of any federal, state or county permits required.

B. Environmental (including physical, social or economic factors) impact on the community and adjacent areas.

C. Compatibility with the general plan.

D. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

E. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls,

F. Location, arrangement, appearance and sufficiency of off-street parking and loading.

G. Adequacy and arrangement of pedestrian traffic access and circulation, walkway surfaces, control of intersections with vehicular traffic and overall pedestrian convenience.

H. Adequacy of storm water and drainage facilities.

I. Adequacy of water supply and sewage disposal facilities.

J. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including maximum retention of

vegetation.

K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

L. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion,

M. Conformance with all other provisions of this chapter.

N. Location, arrangement and design of any ventilation or exhaust device or other heat, moisture or odor producing process or use.

O. The scenic, historical and cultural attributes of the site shall be preserved to the extent practical. There shall be particular consideration given to the preservation of existing views and the associated visual impact(s) of the proposed development. The integrity of existing historic sites or structures on the National Register of Historic Places and areas of archaeological significance shall not be endangered by the development.

P. Within seventy-five feet 75 feet of the Lakefront Zoning District and within the Lakefront and Harbor District, the impact of fence location and height shall be designed to minimize blocking of scenic views and impacting the visibility of the lake from neighboring properties.

§ 150-40. Guaranties for installation and maintenance of improvements.

A. Installation guaranty. In order that the town has the assurance that the construction and installation of infrastructure improvements, including but not limited to storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, access facilities and road surfacing will be constructed, the Planning Board shall require that the applicant complete said improvements before final approval is granted, or the applicant shall enter into one of the following agreements with the town:

(1) Furnish bond with the town named as obligee executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board. Any such bond shall require approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety; or

(2) In lieu of the bond, the applicant may deposit cash, certified check, or an irrevocable bank letter of credit, a certificate of deposit or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the town for the duration of the bond period.

(3) All plans and specifications for the improvements and infrastructure shall be approved by the Highway Superintendent or an engineer hired by the town.

B. Maintenance guaranties. In order that the town has the assurance that the construction and

installation of the infrastructure and improvements, including but not limited to storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, access facilities and road surfacing have been constructed in accordance with plans and specifications, the Planning Board shall require that the applicant shall enter into one of the following agreements with the town:

(1) Furnish a maintenance bond with the town named as obligee executed by a surety company equal to the cost of construction of such improvements and infrastructures as built or constructed and approved by the Town Highway Superintendent or engineer retained by the town. Any such bond shall be for a minimum period of one year and approved by the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety; or

(2) In lieu of the bond, the applicant may deposit cash, certified check, or an irrevocable bank letter of credit, a certificate of deposit or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the town for the duration of the bond period.

(3) After construction of the improvements and infrastructure, they shall be approved by the Highway Superintendent or an engineer hired by the town.

§ 150-41. Specific site plan review criteria.

Following is a list of specific uses with particular criteria to which they must conform, in addition to the other requirements of this chapter:

A. Large Product Retail Establishments

(c) Parking lots should not be placed entirely in front of the building. They should have at least 60 percent of the parking spaces to the side or rear.

(d) The number of driveway entrances and exits should be designed and located to avoid interference with traffic flow along major roads. When possible, locate vehicle entries along side roads.

(e) A variety of roof types are encouraged. Distinct and interesting rooflines instead of flat roofed structures are recommended, to break up the large box appearance.

(f) The building should contain an identifiable base (along exterior walls), extending two or more feet up from the finished grade. The base materials should be highly resistant to damage, defacing, and general wear and tear. Precast decorative concrete, stone masonry, brick and commercial grade ceramic tile are examples of acceptable base materials.

(g) Exterior wall treatments such as arcades, porticos, insets, colonnades, and wing walls should be used to successfully mitigate the appearance of the typical big-box building appearance.

(h) The base of the building should be surrounded on three of the four sides by landscaping or enhanced pedestrian pathways.

(i) Outdoor storage areas should be consistent with the architecture of the primary building. The outdoor display of merchandise in front of the business, or in any other area not expressly designed for such display is prohibited.

(j) Loading should be located and designed to minimize direct exposure to public view. These areas should be screened with landscaping to reduce visual impacts.

B. Convenience Stores

(l) Structures on the site such as the building and canopy should be grouped together and\or integrated into the overall design of a site.

(m) When commercial development abuts a convenience store, two-way vehicular access that is integrated with the adjacent development should be provided.

(n) A fuel delivery truck lane should be provided through the site with the proper turning radius to unload fuel to the underground tanks.

(o) Landscaping and buffering along the perimeter of the project site shall be required to reduce visual impacts to neighboring uses and public roadways.

(p) The siting of tire air filling stations, carwash bays, drying and vacuuming areas should not conflict with on-site vehicle circulation. These areas must also be located and designed to mitigate noise impacts on surrounding properties, especially residences.

(q) The roofs of structures, including pump canopies, should incorporate full roof treatments, with a low to moderate pitch. Flat roof structures or mansard roof applications are strongly discouraged.

(r) Pump island canopies should be designed with a hip, gable, barrel vaulted, or other roof system to match the architectural design of primary structures on the site.

(s) Parking for on-site retail uses should be located in close proximity to the primary customer entrance.

(t) Pedestrian pathways should be provided from required on-site parking to the primary customer entrance.

(u) The location of filling pumps, carwash bays, or other on-site facilities should be designed to avoid vehicle stacking or overflow on adjacent roads.

(v) The base of the building should be surrounded on three of the four sides by landscaping or enhanced pedestrian pathways.

ARTICLE VIII TELECOMMUNICATION FACILITIES

§ 150-42. Purpose and Intent.

A The purpose of this law is to establish predictable and balanced regulations for the siting of telecommunication facilities in order to accommodate the growth of such facilities while protecting the public against any adverse impacts on aesthetic resources and the public safety and welfare.

B. The Town Board of the Town of Henderson recognizes the increased demand for wireless communication transmitting facilities and the need for services they provide. Often these facilities require the construction of telecommunication facilities. The purpose of these supplemental regulations is to protect the community's interest in property siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objective. The following are guidelines that must be followed:

(1) Promote the health, safety and general welfare of the residents of the Town through the establishment of minimum standards to reduce the adverse visual effects of telecommunication facilities through careful design, siting and screening

(2) Protect property values

(3) To protect the physical appearance of the community

(4) Preserve the community's aesthetic and scenic character, protect historic sites and natural beauty

(5) Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures

(6) Protect a citizen's ability to receive communication signals without interference from other communication providers while preserving competition among communication providers

(7) Maximize the use of existing towers or antenna host sites within prescribed districts so as to minimize the number and visual impact of towers needed

(8) To minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures

§ 150-43. Applicability.

A. No telecommunication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.

B. No existing structure shall be modified to serve as a telecommunication facility unless in conformity with these regulations.

C. Where these regulations conflict with other laws and regulations of the Town of Henderson, the more restrictive shall apply, except for tower height restrictions, which are governed by this section.

D. Telecommunication facilities are allowed by special use permit, with priority given to locations proposed within the AR-40 zoning district outside the Corridor Overlay Zone.

E. Telecommunication facilities are prohibited in the LF, I, H, B, BR and R-15 districts, as well as in the Corridor Overlay Zone, unless appropriate lower tower heights and camouflaging methods are used to disguise their appearance resulting only with towers that effectively blend in with their surroundings. Such facilities are also prohibited on or near any officially designated historic site.

F. Antennae proposed to be co-located on an existing tower shall be allowed by zoning permit. Any new accessory structures shall meet setback requirements in the district.

§ 150-44. Review Authority.

A. The Planning Board is hereby authorized to review and approve, approve with modifications or disapprove special use permits for telecommunications facilities pursuant to this law. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication facility, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.

B. Except as provided below, no telecommunication facility shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication facility, except after obtaining a special use permit in conformity with this law.

C. Telecommunication antenna placed on existing telecommunication towers or on existing structures do not require a special use permit, unless the existing tower or structure is located in the LF, I, H, B, BR and R-15 districts, as well as in the Corridor Overlay Zone, or unless it will be modified in such a way as to increase its height, or a new accessory structure would be built.

D. The Planning Board may waive any or all of the requirements for approval of applicants proposing the use of camouflage for a telecommunication tower when the board finds that such camouflage significantly reduces visual impact to the surrounding area. The Planning Board, however, may not waive the requirement that a public hearing be held on the application.

E. No zoning permit shall be issued until the applicant provides proof that space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.

§ 150-45 . Site Location Priorities.

A. There is hereby established a corridor overlay zone on the current zoning map. This zone is deemed to contain areas of the highest priority for preservation of the character thereof by reason

of the existence or location of waterfront, scenic or historic views or areas or other visually sensitive areas or properties therein.

B. Telecommunication facilities shall be located, sited, and erected in descending order of priority as follows:

(1) On an approved or existing telecommunication tower or other tall structure.

(2) On a parcel or site with existing wireless telecommunication tower facilities (co- location) in the AR-40 Zoning District outside the Corridor Areas (Corridor Overlay Zone) defined in priority (5) below.

3) On property in the Town, including municipally owned properties, which will have the least impact on the health, safety, and welfare of the community and of adjoining property owners, (outside the Corridor Overlay Zone).

(4) On other property in the Town

(5) On property within the corridor overlay zone and such other areas as are deemed priority character areas consisting of waterfront, scenic, historic or otherwise visually sensitive areas identified by the Planning Board as such, as to an application during the review process or at a public hearing on the application.

C. Notwithstanding applicant's selection of only the proposed location applicant shall provide a detailed written statement as to conditions or considerations preventing the location and siting of such facilities on sites of higher priority as listed above than the selected site which shall include technological data and expert opinion where appropriate or necessary in support thereof. The impact and extent of hardship, whether financial or caused by technological impracticability of sites of higher priority to provide necessary service, or otherwise, imposed on applicant in requiring a site of higher priority than the selected site shall be considered in granting approval of a site of lesser priority.

D. In support of all applications, applicant shall provide written proof of the technological need supported by expert opinion to locate the facility as proposed to provide necessary telecommunication services that cannot be provided without location as proposed.

§ 150-46 . Special Permit Review Criteria for Telecommunication Facilities.

A. No special use permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunication Facility shall be authorized by the Planning Board unless it finds that such telecommunication Facility meets the following requirements:

(1) Facility is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.

(2) Facility conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.

(3) Facility will be designed and constructed in a manner, which minimizes visual impact to the

extent practical.

(4) Facility complies with all other requirements of this local law, unless expressly superseded herein.

(5) Facility is the most appropriate site among those available within the technologically feasible area for the location of a Telecommunication facility.

(6) When including the construction of a tower, such tower is designed to accommodate future shared use by at least two (2) other service providers. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there will be no increase in the height of the tower. However, any additional equipment will require site plan review.

§ 150-47. Specific Application Materials and Support Documentation for Telecommunication Facilities.

A. Site Description.

Applicant shall provide a narrative description of the proposed project site, including:

(1) Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures.

(2) Vegetative cover (e.g., plant cover types, species, tree types (average, minimum, and maximum); relative condition (health) of the vegetation; and tree stand density, as well as tree line heights), slopes.

(3) Soils and depth to bedrock.

(4) Wetlands and surface water bodies.

(5) Site drainage.

(6) Any special plant and animal habitats contained on the NYS DEC Natural Heritage Program database.

(7) Any historic or archeological resources on the site and any historic resources adjacent to the site.

B. Co-location Proposals. Where co-location is proposed, provide:

(1) To-scale site plans and elevations of the existing tower, building or structure to be used for co-location.

(2) Plans, elevations, and details showing the proposed electronic communication facilities and existing antennae located on the tower.

C. Site Plan. Applicant shall provide a detailed, labeled, and to-scale site plan that includes the following:

(1). Scale, north arrow, date and name of preparer.

(2) Project site boundaries (if part of a larger parcel, include a map of the larger, parent parcel and the location of the area to be acquired or leased for the project).

(3) All bodies of water; wetlands; permanent or intermittent streams/creeks, mean high water mark for larger water bodies on or adjoining the project site, and distance from the water body shoreline to the facility.

(4) Existing and proposed topographic contours at two-foot intervals in and within 200 feet of all proposed areas to be disturbed.

(5) All existing and proposed buildings, structures, roads, utilities and driveways, including their proposed heights (including tower height), as well as structures on adjacent property within 500 feet of the lot lines, together with the distance of these structures to the telecommunication facility.

(6) Existing vegetation cover types and tree lines.

(7) The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the site access, tower, and accessory structures.

(8) All trees 4 inches in diameter (measured at the height of four feet), as well as those to be removed.

(9) All proposed plantings.

(10) All existing and proposed drainage and erosion control and storm water management facilities.

(11) The location, type and intensity of any lighting on the tower.

(12) For any new or improved access roads or driveways, provide a grading plan with centerline profile, and cross sections, and identification of construction material(s).

D. Construction details. Detailed construction plans and elevation of the proposed tower, antennae, equipment shelters (enclosed building, structure, cabinet, shed or box to contain batteries and electrical equipment) shall be provided which set forth all foundations, piers, structural supports, cross arms, guy wires and anchors, antennae mounting mechanisms and signage. The size and material of all towers, antennae, and accessory structures (e.g., equipment shelters, security fencing, and signage) shall be provided together with a color sample(s) for each.

E. Supporting Documentation. The following shall be submitted in the application materials:

(1) Tower Information: All information prepared by the manufacturer of the antenna and/or tower including, but not limited to, the following:

(a) Make and model of tower to be erected.

(b) Detail of tower type.

(c) Manufacturer's design data for installation instructions and construction plans.

(d) Applicant's proposed tower maintenance and inspection procedures and records systems.

(e) Anti-climb devices for the tower and any guy wires.

(2) Existing and Approved Tower and Tall Structure Inventory: A report and map identifying all existing or approved telecommunication towers and other tall structures over fifty (50) feet in height within a five (5) mile radius of the proposed site. The report shall outline opportunities for shared use of the existing and approved telecommunication facilities or other tall structures as an alternative to the proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical, financial reasons and/or other reasons why shared use is not practical in each case. Written requests for shared use and responses thereto shall be provided.

(3) EAF Form, Visual Addendum and System Need: An environmental assessment long form with visual addendum and a propagation study, plot analysis or other similar analysis or report demonstrating that the location and height of the telecommunications facility as proposed is necessary to meet the frequency, reuse and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. Each of the existing facilities and/or tall structures within the above mentioned five mile radius shall also be studied using same propagation studies, plot analyses or report methods as above, to illustrate the viability of the alternative sites when compared to the proposed site.

(4) Visual Analysis: A detailed visual analysis to assist the Planning Board when completing the evaluation portion of the visual EAF addendum, which visual analysis shall include:

(a) A Zone of Visibility Map showing geographic locations from which the tower or facility may be seen.

(b) Assessment of the visual impact of the tower or facility base, guy wires, and accessory structures from abutting properties, roads, and nearby public parks, waterways and overlooks (scenic view areas).

(c) Possible techniques for camouflaging the tower.

(5) A copy of the applicant's Federal Communications Commission (FCC) licenses;

(6) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure or existing or approved tower, and setting forth such modification, if any, as will be required for such certification.

(7) An engineer's report as to structural capacity of the tower or other structure.

(8) Documentation of the proposed intent and capacity of use and justification for the height of any tower or facility and justification for any vegetative clearing required.

(9) Documentation of intent to allow shared use from the owner of the existing tall structure or existing tower proposed for shared use.

(10) An engineers certification that transmission from the proposed Telecommunication Facility will comply with Federal frequency emission standards and will not interfere with existing signals such as those of household televisions and radios and other similar devices.

(11) A written agreement by applicant to reimburse the Town for the reasonable cost of consultants and/or specialists to assist the Town in the review of the application.

§ 150-48. Shared Use of Existing Tall Structures Preferred.

A. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennae on preexisting structures (for example: municipal water towers, multi story buildings, church steeples, farm silos, tall signs, etc.) shall be considered and given priority over a new or proposed telecommunication tower site.

B. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing structure. Copies of written requests and responses for shared use shall be provided.

§ 150-49. New Towers.

A. The Planning Board shall consider a new tower only when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical as proven by the inventory report required in this section.

B. The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and successors in interest thereof, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of any approval granted. The letter shall commit the new tower owner and his/her successors in interest to:

(1) Respond within 90 days to a request for information from a potential shared use applicant.

(2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunication providers.

(3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. Such charge may include but shall not be limited to a pro rata share of the cost of site selection planning, project administration, land cost, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

§ 150-50. Supplemental Regulations Telecommunication Facility For:

A. Design: The design of a proposed new tower shall comply with the following:

(1). Any new tower shall be designed to accommodate future shared use by at least two (2) other telecommunications providers.

(2) The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower.

(3) The tower should be screened, disguised and/or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function. Such screening shall also include the maximum preservation of existing vegetation, and the appropriate planting of vegetative buffering around the fences, accessory structures, and guy wire anchor points.

(4) Within the visually significant areas (priority Corridor Areas, Corridor Overlay Zone) identified by the Town, camouflage design techniques shall be required. Tower heights shall be limited to less than 35 percent higher than the average tree line height, unless appropriate camouflage design is proposed. For example, if the average tree line height is 100 feet, tower heights shall be a maximum of 135 feet.

(5) The design principals of visual and geographic context, scale, form, line, and texture should be used when considering design, screening, and camouflaging techniques.

B. Area Standards. Area Standards shall be as follows:

(1) All proposed telecommunication facilities shall be located on a single lot.

(2) The setback for towers shall be one hundred and ten percent (110%) of the towers height, unless the applicant can provide an engineer's report indicating a smaller debris fall zone, in which case the Planning Board will consider a smaller setback.

(3) Guy wire anchors shall be setback from lot lines the same required minimum setback distance as accessory structures.

(4) Minimum lot size shall be determined by setback requirements.

(5) If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan.

(6) A lot leased or owned for the purpose of construction of a tower as part of a telecommunication facility shall not result in the creation of a non- conforming lot.

(7) The frontage requirement of the underlying zoning district shall not apply, provided the telecommunication facility is not proposed on a parcel to be partitioned specifically for the facility and\or is designed for occupancy by staff. In the absence of required frontage, an access way for service vehicles - either through easement, lease or ownership-shall be in accordance with Parking and Access regulations herein.

C. Visual Impact Requirements:

(1) All towers and accessory facilities shall be sited to have the least adverse visual effect on the environment.

(2) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA).

(3) Towers shall be a galvanized finish or painted grey above the surrounding tree line and painted grey, green or black below the surrounding tree line unless otherwise required by the FAA.

(4) Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(5) Color pictorial representations shall be prepared and submitted with the application of before and after views from the key viewpoints both inside and outside the Town, including, but not limited to, state highways and other major roads, state and local parks, other public lands, waterways, preserves and historic sites normally open to the public and from any other location where the site is visible to a large number of visitors or travelers (such as harbor areas, scenic overlooks, and similar areas). The Planning Board shall at a pre- submission conference with the applicant, determine the appropriate key sites to be considered. The pictorial representations shall include alternative tower designs and color schemes, also including camouflage designs appropriate to community character.

(6) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

(7) Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground), shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

(8) Deciduous and evergreen tree plantings shall be required to screen portions of the tower and

accessory structures from adjacent residential property roads and public sites known to include important views and vistas. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height if any berm.

(9) Using the above submitted materials and criteria, the Planning Board shall make an assessment of the visual impact of the tower, tower facility, base, guy wires and accessory buildings from abutting properties and streets, waterways, & scenic view areas.

D. Parking and Access: A road and parking plan shall provide adequate emergency and service access. Maximum use shall be made of existing roads, public or private roads. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objectives of this subsection.

E. Fencing: Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence, design of which shall be approved by the Planning Board, unless the applicant demonstrates to the Planning Board that such measures are unnecessary to ensure the security of the facility. The board may require signage to be placed upon said fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business and emergency number), and that no trespassing upon the site is allowed.

F. Signs: No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to; company name; phone numbers; banners; and streamers.

G. Engineering and Maintenance:

(1) Every facility shall be inspected at least every two years for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the municipal enforcement officer.

(2) A safety analysis by a qualified professional must accompany any application for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.

(3) The municipality, at the expense of the applicant, may employ its own consultant to assist in reviewing the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

H. Removal of Towers. The applicant shall submit to the Planning Board a letter of intent committing the tower or facility owner, and his/her successors in interest, to notify the enforcement officer within 30 days of the discontinuance of use of the tower or facility. This letter shall be filed with the enforcement officer prior to issuance of a permit. Obsolete or unused

towers, facilities or accessory structures shall be removed from the site within four months of such notification or five months from discontinuance of use, whichever shall first occur. Failure to notify and/or remove the obsolete or unused tower or facility in accordance with these regulations shall be in a violation of this law. Town may also remove said tower or facility upon failure of owner to remove as provided herein and the expiration of ten (10) days after written notice of intent to remove is delivered to the U. S. postal service for first class delivery to the owner thereof, if known, and to the owner of real property on which tower or facility is located as identified on the latest assessment roll of the Town. The reasonable cost of removal incurred by the town shall be a lien on the real property on which the facility or tower is located and may be levied and collected by the town in the same manner as the real property taxes of the Town or in any other manner permitted by law.

I. Inter-municipal Notification. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing tall structures or existing towers in a neighboring municipality be considered for shared use, the Planning Board shall require that an applicant who proposes a tower or facility shall notify in writing the legislative body of each municipality within the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use. Documentation of this notification shall be submitted to the Planning Board at the time of application.

J. Zoning Permits. When a zoning permit is obtained, the applicant shall provide to the town, financial security in cash, surety bond or other security acceptable to the Town for the anticipated cost of removal of the telecommunications facility and property restoration of the site in the event the town shall be required to remove such on failure of owner to remove as required herein. The amount of security shall be approved by the Planning Board, but shall not be less than $50,000. When the permit is renewed or modified, the Board may adjust the required amount of the required financial security to adequately cover increases in the cost of removal of the telecommunication facility and property restoration.

ARTICLE IX SMALL WIND ENERGY CONVERSION TOWER SYSTEM (SWETS) AND WIND TOWER REGULATIONS

§ 150-51. Purpose and Authority.

A. The Town of Henderson recognizes the demand for wind-powered electricity generating devices. These facilities require the construction of a SWETS. The intent of this local law is to regulate the height, size, location and other features of small wind energy facilities, as herein defined, in order to provide standards for the safe provision of small wind energy facilities and to protect the town's interest in properly siting SWETS in a manner consistent with sound land use planning, subject to reasonable restrictions.

B. The Town of Henderson Planning Board is hereby authorized to fully approve, approve with conditions, or disapprove SWETS Special Permit siting applications in accordance with this local law. A Site Plan Review conducted by the Planning Board is required

before a building permit may be issued for any SWETS. The Planning Board may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense.

§ 150-52. Permits Required.

A. No SWETS shall be constructed, reconstructed, modified, or operated in the Town of Henderson, except in compliance with the zoning law.

B. Transfer. No transfer of any SWETS or Special Use Permit will occur without prior approval of the Zoning Board of Appeals. Such approval shall be granted upon written acceptance by the transferee of the obligations of the transferor under this zoning law.

C. Violations. No Special Permit shall be issued if there are violations of any federal, state, or local law, statute or regulation on the property.

§ 150-53. Definitions specifically pertaining to SWETS.

Accessory Facilities or Equipment: Any structure other than a wind turbine, related to the use and purpose of deriving energy from such towers, located at or near the tower facility.

Districts: Those areas within the Town of Henderson which the Town Board has determined as appropriate for the development of SWETS and related infrastructure, electrical lines and substations, access roads and accessory structures. SWETS shall be allowed in said districts with issuance of a Special Use Permit: AR-40 excluding the corridor overlay zone.

Height: The height of the tower is measured from the ground level to the furthest vertical extension of the blades, or entire structure.

Free standing: Standing alone or on its own foundation. Not connected to any pre-existing structures.

§ 150-54. Standards for SWETS.

A. A SWETS system shall be located on a parcel consisting of a minimum of five acres in size. Five acres may include no more than two adjoining parcels meeting all other criteria of this law.

B. SWETS shall be set back from all property lines, public roads and residences a distance equal to at least 1.5 times the total height of the SWETS as defined in Section 150-53.

C. SWETS shall comply with all FAA regulations.

D. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape.

E. The system's tower shall be free standing. Towers supported by guy wires must be surrounded by minimum of a 6 foot chain link fence

F. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, trails) or historic sites. SWETS are prohibited inside the boundaries of any officially designated historic site. To the greatest extent feasible, a SWETS shall use natural landforms and vegetation for screening.

G. All-on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines.

H. The SWETS shall be operated such that no disruptive electromagnetic interference is caused.

I. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No other signage shall be allowed on site or tower facility.

J. Owners shall provide one of the following means of access control, or other appropriate method of access:

1. Tower-climbing apparatus located no closer than 8 feet from the ground.
2. A locked anti-climb device installed on the tower.

K. Construction of on-site access roadways shall be minimized.

L. To prevent harmful wind turbulence to existing structures, the minimum height of the lowest part of any horizontal axis SWETS blade shall be at least thirty (30) feet above the highest structure or tree within a Five Hundred (500) foot radius.

M. All SWETS shall be designed and constructed to be in compliance with pertinent provision of the Uniform Building Code and National Electric Code.

N. All SWETS shall be equipped with manual and automatic over-speed controls for shutdown.

O. Except during short-term events, not to exceed five minutes, a SWETS shall be designed, installed and operated so that noise generated by the system shall not exceed ambient noise level plus 5 decibels (dBA).

P. All SWETS shall be maintained in good condition and in accordance with all requirements of this section

§ 150-55. Additional Standards.

A. The recipient of the special permit must respond to and correct any valid complaints within a sixty (60) day time period. Failure to do so may result in a temporary or permanent revocation of the permit.

B. No television, radio or other communication antennas may be affixed or otherwise made part of

any SWETS.

C. If it is determined that a SWETS is causing stray voltage, the operator shall take any and all necessary corrective action to eliminate the problem up to and including relocation or removal of the SWETS.

D. A SWETS, which is not operational and in use for twelve (12) successive months, shall be deemed abandoned and the SWET shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit. Failure to notify and/or remove the obsolete SWETS in accordance with these regulations shall be a violation of this local law. The cost of removing the SWETS and accessory structures shall be levied against the property in the same manner as a special ad valorem tax levy or lein against the property.

§ 150-56. Application.

Application for SWETS Special Use Permits shall include:

A. Site Plan

1. Six copies of the complete Special Permit application shall be submitted to the EO. Payment of all application fees shall be made at the time of application submission.

2. Name, address and telephone number of the applicant(s). Name, address and telephone number of the property owner(s) (if different). If the property owner is not the applicant, the application shall include written permission signed by the property owner.

3. Name and address and of all owners of record of parcels within 1,500 feet of the property lines of parcel where development is proposed.

4. Evidence that the proposed height does not exceed the height recommended by the manufacturer and/or distributor of the system or 120' whichever is less.

5. A description of the project, including a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

   a. Property lines and physical dimensions of the Site;
   b. Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within 1,500 feet of the Site;
   c. Location and ground elevation of proposed SWETS;
   d. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:

      i. Perimeter equal to 1.5 times the height of the SWETS.
      ii. Fifteen hundred foot perimeter.

6. All proposed facilities, electrical lines, substations, storage or maintenance units, and fencing.

7. Elevation drawing of the SWETS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors.

§ 150-57. Procedure.

A. The Planning Board or the Zoning Board of Appeals may, at its discretion, hire a consultant to review permit applications at the applicant's expense.

B. Upon determination that the application is complete and is fully in compliance with this and all other relevant laws and regulations, the Planning Board shall hold at least one public hearing (within 62 days) on the application. Notice shall be given by first-class mail to property owners within 1,500 feet of the property line of each proposed SWETS and published in the Town's official newspaper, no less than ten days before any hearing. Upon the holding of a public hearing and the completion of the SEQRA (State Environmental Quality Review Act) process, the Planning Board may approve, approve with conditions, or deny the application.

§ 150-58. Penalties

A. Subsequent to an appropriate review and/or hearing, any person or group of persons found to be in violation of any of the provisions of this local law shall be guilty of a violation subject to a mandatory fine as described in Subsection 150-19 of the Town of Henderson Zoning Law for each offense. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal to remedy the violation shall continue.

B. In addition to the above provided penalties, the Board may also initiate an action or proceeding in the name of the Town in a court or competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this local law.

ARTICLE X PLANNED DEVELOPMENT DISTRICT (pdd)

Association Island Planned Development District

§ 150-59. Zoning Description.

A. The zoning designation of Association Island in the Town of Henderson is hereby amended to change it from Island District to Planned Development District, and the Town's Zoning Map is hereby amended accordingly. The legal description of said parcel is on file in the Town and County Clerk's Offices

B. The new Planned Development District shall hereafter be known as the Association Island Planned Development District and the uses allowed thereon are as set forth on the maps as listed on Exhibit A hereto and shall consist of the uses set forth as Exhibit B. (Exhibit A is on file in the office of the Town Clerk)

C. The water distribution system shall be constructed in accordance with the New York State Department of Health Permit issued therefore. The sewage treatment and collection facilities shall be in accordance with the New York State Department of Environmental Conservation SPEDES Permit issued therefore.

D. The applicant shall comply with all Town, County, State and Federal regulations regarding the development of the proposal including but not limited to road construction, erosion and sedimentation control, flood regulations, building construction, fuel storage and dispensing and all other aspects of said project.

ARTICLE XI SOLAR ENERGY SYSTEMS REGULATIONS

§ 150-60. Purpose and Authority.

A. The Town of Henderson recognizes the demand for generating electricity from solar energy system. These systems require the construction of solar collectors. The intent of this local law is to regulate the height, size, location and other features of solar collectors for solar energy systems, as herein defined, in order to provide standards for the safe provision of these facilities and to protect the town's interest in properly siting solar energy systems in a manner consistent with sound land use planning, subject to reasonable restrictions.

B. The Town of Henderson Planning Board is hereby authorized to fully approve, approve with conditions, or disapprove Solar Energy Systems using Special Permit siting applications in accordance with this law. A Site Plan Review conducted by the Planning Board is required before a building permit may be issued for any Solar Energy System. The Planning Board may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense.

§ 150-61 Operating Procedures.

A. All solar energy systems shall be operated without stray voltage damage to said property and adjoining properties. Any stray voltage damage will warrant all operations to cease until a professional engineer is consulted and it is certified that the stray voltage discharge is eliminated.

B. All solar energy systems shall be maintained in good condition, in accordance with Article XI of the Zoning law.

C. All solar energy systems will require appropriate permits in accordance with Town Zoning law, Town and State Fire Safety and Building Codes, as well as National Electrical Codes.

D. The requirements of this law shall apply to all solar energy systems installed or modified after its adopted date, excluding general maintenance and repair and building integrated photovoltaic systems.

§ 150-62. Permits Required.

A. No solar energy systems shall be constructed, reconstructed, modified, or operated in the Town of Henderson, except in compliance with the zoning law.

B. Transfer. No transfer of any Solar Energy System Special Use Permit will occur without prior approval of the Zoning Board of Appeals. Such approval shall be granted upon written acceptance by the transferee of the obligations of the transferor under this zoning law.

C. To the extent practicable, and in accordance with this law, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Henderson Zoning Law.

D. Solar Systems: Roof Mounted

1. Roof Mounted Solar Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted structure. A valid zoning permit shall be obtained through the Town of Henderson Zoning Enforcement Officer, prior to installation.

2. Height. Roof mounted solar systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices/equipment.

3. Aesthetics. Roof mounted solar systems shall use the following design standards:

a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18" between the roof and the highest edge of the system.
b. All solar collectors shall be installed to prevent glare and heat that is perceptible beyond said property's lot lines.

4. Roof mounted solar systems that increase the height of the structure by more than eighteen (18") inches shall be subject to Site Plan Review by the Town Planning Board.

E. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted outright in all zoning districts.

F. Ground Mounted/ Free Standing Solar Systems:

1. Solar Systems- Ground Mounted are a permitted accessory use in AR-40 zoning district. A Special Use Permit must be granted for ground mounted units in all remaining zoning districts.

2. Building permits are required for the installation of all ground mounted solar collectors.

3. All solar collectors must be located in compliance with NYS Department of Environmental Conservation (DEC) and Federal Flood Plain regulations as they pertain to waterways, waterbodies, and identified wetlands.

4. Setbacks. All setback requirements of the underlying zoning district shall be enforced.

5. Height. Ground mounted unit shall not exceed eight (8') feet in height when oriented at maximum tilt.

6. Aesthetics. All such systems shall be installed in side or rear yard beyond set-back requirements. Solar energy equipment shall be located in a manner to reasonably minimize visual disturbance for surrounding properties without blocking adequate solar access for collectors.

7. Lot Coverage/ Lot Size. The following components of solar energy systems shall be considered. Maximum lot coverage is 40 percent. Included in the calculations for lot coverage requirements:

   a. The surface area covered by ground mounted solar panels shall be included in total lot coverage. It is understood that the area below the panels is pervious, however lot coverage requirements are in accordance with maximizing solar system usage while maintaining appropriate open space to retain the character of the underlying zoning district.

   b. All mechanical equipment of the solar energy system, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.

   c. Paved access roads servicing the solar energy system.

   d. The minimum lot size for a ground mounted solar system shall meet the requirements of the underlying zoning district specifications.

8. Glare. All solar collectors shall be installed so as to prevent glare and heat that is perceptible beyond said subject property's lines. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/ approach patterns in order to minimize potential glare impact on pilots.

G. Large Scale Solar Energy Systems are allowed in the AR-40 District through the issuance of a Special-Use permit subject to the requirements set forth in this section and granted by the Town Planning Board. Requirements of this section, including Site Plan approval are prerequisites. Applications for the installation of a large scale solar system shall be reviewed by the Zoning Enforcement Officer and referred to the Town Planning Board for review and action. Action on such projects include approval, approval with conditions, and denial.

1. All solar energy systems shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code (IBC), International Fire Prevention Code, and National Fire Protection Association (NFPA) 70 standards.

2. All solar collectors must be located in compliance with DEC and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and identified wetlands

3. Application requirements for all large scale solar energy systems. Site Plan Review application and the following provisions are required in addition to the requirements stated in Town Code Chapter 150 Article VII:

    a. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the said land for the duration of the project. Included easements and other agreements shall be submitted.

    b. Detailed engineered plans showing the layout of the solar energy system signed by a Licensed Engineer or Registered Architect. Are required.

    c. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters are to be installed.

    d. Onsite wiring shall be underground except at points of tie-in to the public utility company. This Standard may be modified by Planning Board review if the project location has extraordinary circumstances,; i.e. excessive grading, biological impacts, or similar extenuating factors.

    e. Property operation and maintenance plan shall be created and maintained. Such plan shall describe continuing photovoltaic maintenance and property upkeep (including mowing and brush trimming).

    f. Fort Drum. The applicant shall notify Fort Drum Plans, Analysis, and Integration Office as soon as possible to determine potential impacts on Fort Drum airfield and training activities. The applicant must provide the Town with copies of all correspondence from Fort Drum.

    g. Watertown International Airport. The applicant shall notify the Airport Manager as soon as possible to determine potential impacts on the airport. The applicant must provide the Town with copies of all correspondence from the airport.

    h. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Consideration for the impact to these soils and a requirement to minimize the displacement of prime soils that are in agricultural production caused by the Large Scale Solar Energy.

4. Design Standards:

    a. Setbacks. Minimum setback for solar structures and solar equipment shall be 100’ (feet) from the legal lot line. Any ancillary structure and equipment shall

comply with all minimum setbacks for principal structures in accordance with Town of Henderson Zoning Law

b. Height. Large scale solar systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.

c. Lot size. Lot minimum is five (5) acres in area.

d. Lot coverage. Large scale solar systems, when added to other structures not associated with solar systems are limited to 50 percent maximum lot coverage. The surface area covered by solar panels shall be included in total lot coverage. It is understood that the area below the panels is pervious, however lot coverage requirements are in accordance with maximizing solar system usage while maintaining appropriate open space to retain the character of the underlying zoning district.

e. Fencing requirements. Large scale solar systems. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot- high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. The type of fencing shall be determined by the Town Planning Board. Fencing is in addition to required site screening.

f. Screening. Large scale solar systems shall have the least visual effect practical on the environment, as determined by the Town Planning Board. Based on site specific conditions, including topography, adjacent structures, and roadways, a reasonable effort shall be made to minimize visual impacts by preserving natural vegetation whenever possible, and providing landscape screening to abutting roadways and residential properties. Screening will also be required in public/important view sheds or scenic vista areas. No more than fifteen (15) percent of the total existing brush, trees, and other vegetation on the parcel may be removed in order to accommodate a solar farm. Any appurtenant structures: such as inverters, batteries, equipment housing facilities, storage facilities, and transformers, shall be screened. All areas within the corridor overlay zone are subject to additional screening requirements (see Schedule IV, "Additional Screening Requirements Within the Corridor Overlay Zone")

g. Signage. Warning signs with the owners contact information shall be placed on the entrance and perimeter of the fencing. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar, both temporary and permanent, are prohibited on solar equipment. Exceptions include: Manufacturers or installers identification; appropriate warning signs and place cards; signs that may be required by a Federal agency; and any signs that provide 24-hour emergency contact phone numbers to caution of dangers.

h. Glare. All solar collectors shall be installed so as to prevent glare and heat that is perceptible beyond said subject property's lines. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/ approach patterns in order to minimize potential glare impact on pilots.

i. Noise. Noise producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernable difference from existing noise levels at said property lines.

j. Access and Parking. An access road and parking will be provided to ensure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

k. Any application under the section shall meet substantive provisions contained in Site Plan requirements of the Zoning Law. The judgement of the Planning Board are applicable to the proposed project. If none of the site plan requirements are applicable, the Planning Board may waive the requirement for Site Plan Review.

l. The Planning Board may impose conditions on its approval of any Special Use Permit under this section in order to enforce the standards referred to in the Section, or in order to discharge obligations under the State Environmental Quality Review Act (SEQRA).

m. Abandonment and Decommissioning.

(a) Solar Energy Systems are considered abandoned after twelve months without electrical energy generation and must be removed from the property. Applications for six-month extensions will be reviewed by the Planning Board. The site shall be restored to the natural condition within twelve (12) months of removal.

(b) Decommissioning Plan. To ensure the proper removal of Ground Mounted and Large Scale Solar Energy Systems, a decommissioning plan shall be submitted as part of the initial application. Compliance with this plan shall be made a condition of Special Use Permit approval under this section.

i. The Decommissioning Plan must specify that after the Solar Energy Systems is inoperable or abandoned, the applicant or subsequent owner shall remove all equipment.

ii. The plan shall illustrate the removal of all infrastructure and a property plan for the remediation of soil/ vegetation to its original state.

iii. The plan shall include an expected timeline for execution.

iv. A cost estimate detailing the project cost of the Decommissioning Plan is to be prepared by a licensed professional engineer. Or certified contractor. Cost estimations shall consider inflation, removal of solar systems, and must be completed in accordance with the Decommissioning Plan.

If the above specified Solar Energy Systems is not decommissioned it shall be considered abandoned as defined above, then the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

(c) Sureties/Bond. The applicant shall be required to provide sureties, as set forth for the removal of the Solar System-Large Scale. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in the amount as agreed upon between the Town and the applicant. The set amount shall cover the expense of the removal of the system and remediation of the landscape, in the event that the Town must remove the developed solar facility area.

§ 150-63. Additional Standards.

A. The requirements of this Ordinance shall apply to all Small Scale solar energy systems (residential, commercial, multi-family and condominium) modified or installed after the effective date of this law.

B. Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of this law except in accordance with this Section (H), (I) and (J).

C. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards.

D. Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit "collective solar" installations or the sale of excess power through a "net billing" or "net-metering" arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

E. All solar collector installations must be performed by a qualified solar installer.

F. Prior to operation, electrical connections must be inspected by the Enforcement Officer, and by an appropriate electrical inspection person or agency, as determined by the Town of Henderson. The Town of Henderson's nominated Insurance Inspector may also participate in the

inspection, if deemed necessary by the Town of Henderson.

G. Any connection to the public utility grid must be inspected by the appropriate public utility.

H. Solar energy systems shall be maintained in good working order.

I. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.

J. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town of Henderson and other applicable laws and regulations.

K. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit. Failure to notify and/or remove the obsolete Solar Energy System in accordance with these regulations shall be a violation of this local law. The cost of removing the Solar Energy System and accessory structures shall be levied against the property owner by the Town of Henderson under all the rights it has by local, county, state and federal laws.

L. To the extent that the Town of Henderson has discretion regarding the removal or relocation of trees, solar access shall be a factor taken into consideration when the Town of Henderson determines whether trees can be removed.

M. Construction of on-site access roadways shall be minimized.

N. Solar energy systems and equipment shall be permitted only if they are determined by the Permit Granting Authority and the Town of Henderson, or their agents and assigns, not to present any unreasonable safety risks, including, but not limited to, the following:

1. Weight load
2. Wind resistance
3. Ingress or egress in the event of fire or other emergency.

O. Installations in designated historic districts as shall require a coordinated review Type I SEQRA to ensure appropriate evaluation is done during siting process with all involved agencies.

P. Violations. No Special Permit shall be issued if there are violations of any federal, state, or local law, statute or regulation on the property.

§ 150-64. Appeals.

A. If an individual is found to be in violation of the provisions of this Local Law ~~Ordinance,~~ appeals should be made in accordance with the established procedures of this law.

B. If a building permit for a solar energy device is denied because of a conflict with other goals of the Town of Henderson the applicant may seek relief from the Zoning Board of Appeals, which shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

§ 150-65. Procedure.

A. All building permit application fees for the construction and installation of solar panels on residential and non-residential buildings shall be as stated in this law, plus engineering, consulting and legal fees, where applicable by local, county, state and federal law

B. All building permit applications for the installation of solar panels on residential and non-residential buildings shall receive expedited review by the Town of Henderson in order to expedite such applications and the issuance of building permits for solar panel installation.

C. The Planning Board or the Zoning Board of Appeals may, at its discretion, hire a consultant to review permit applications at the applicant's expense.

§ 150-66. Application.

Application for Solar Energy Systems Special Use Permits shall include:

A. Site Plan

1. Six copies of the complete Special Permit application shall be submitted to the EO. Payment of all application fees shall be made at the time of application submission.

2. Name, address and telephone number of the applicant(s). Name, address and telephone number of the property owner(s) (if different). If the property owner is not the applicant, the application shall include written permission signed by the property owner.

3. Name and address and of all owners of record of parcels within 1,500 feet of the property lines of parcel where development is proposed.

4. A description of the project, including a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

   a. Property lines and physical dimensions of the Site;
   b. Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within 1,500 feet of the Site;

   c. Location and ground elevation of proposed Solar Energy System, including all lot line setback dimensions and measurements to all residences within 1500 feet of the Solar Energy System;

5. All proposed facilities, electrical lines, substations, storage or maintenance units, and fencing.

6. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e.g. g rotational crops, hay land, unimproved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed.

§ 150-67. Penalties

A. Subsequent to an appropriate review and/or hearing, any person or group of persons found to be in violation of any of the provisions of this local law shall be guilty of a violation subject to a mandatory fine as described in Subsection 150-19 of the Town of Henderson Zoning Law for each offense. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal to remedy the violation shall continue.

B. In addition to the above provided penalties, the Board may also initiate an action or proceeding in the name of the Town in a court or competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this local law.

EXHIBIT A

Site Plan – Association Island by Charles L. Fluno, PE & Associates dated 8/9/96, numbered109-91-2.2 Rev.3) (Last revised 1/24/27).

Site Plan – Final Contours by Charles L. Fluno, PE & Associates dated 8/9/96, numbered 109-91-3.1 (Rev. 2) (Last revised 1/24/97).

Final Contours – Stormwater Drainage by Charles L. Fluno, PE & associates dated 8/9/96, numbered 109-91-3.2 (Rev. 2) (Last revised 1/24/97).

Sewer System Vacuum Collection Line Layout by Charles L. Fluno, PE & Associates dated 8/9/96, numbered 109-91-4-S2 (Rev. 2) (Last revised 1/24/97).

Water Distribution Line by Charles L. Fluno, PE & Associates dated 8/9/96, numbered 109-01-4W-2 (Rev. 1) (Last revised 6/15/97.)

Site Plan – Association Island – Outdoor Lighting by Charles L. Fluno, PE & Associates dated 8/9/96, numbered 109-91-5.2 (Rev. 2) (Last revised 1/24/97).

Site Plan – Site Numbers by Charles L. Fluno, PE & Associates dated 8/9/96, numbered 109-91-6 (Rev. 1) (Last revised 3/25/97).

EXHIBIT B

A maximum of 307 recreational vehicle sites, each with a minimum of 2,500 square feet and a minimum average width of 40 feet. The front yard setback shall be 75 feet from the shoreline at mean high water (contour 246 feet).

A marina containing a maximum of 250 slips.

Retail fuel storage and dispensing facilities.

A restaurant with patron space not to exceed 5,000 square feet.

A convenience store and resort office not to exceed 5,000 square feet of building area.

A marina sales, bathhouse and laundromat building not to exceed 2,400 square feet of building area.

A lodge building containing not more than 10 single family apartment units.

Five rental cottages (existing).

One staff housing building not to exceed 3,300 square feet and housing no more than 15 persons.

One swimming pool.

Outdoor recreation facilities including 2 tennis courts, 2 basketball courts and passive recreation areas.

Indoor recreation facilities building not to exceed 25,000 square feet including community meeting room, youth activities and recreation hall. One storage building not to exceed 4,000 square feet.

Three bathhouses not to exceed 1,200 square feet each.

One sanitary dumping station for R.V.'s and marina pump out.

Wastewater treatment facility and collection system.

Water treatment buildings and distribution systems.

Parking facilities.

SCHEDULE I - District Lot, Setback and Height Requirements							
	ZONING DISTRICT						
Setback Requirements (feet)	**LF**	**I**	**AR-40**	**B**	**BR**	**R-15**	**H**
Front yard-waterfront	75	75	-	-	-	-	*
Front yard non-waterfront	50	50	75	75	75	50	*
Rear yard	25	25	25	20	25	20	20
Single side yard minimum	20	20	30	20	20	20	15
Lot Dimensions							
Width (feet)	150	120	150	120	120	100	80
Area (square feet)	25,000	20,000	40,000	20,000	20,000	15,000	15,000
Maximum Building Height (feet)	35	35	35	35	45	35	35

Notes:

***** The smallest distance on adjoining lot front yard setbacks, between the front lot line and the nearest building. In no case shall this be less than 10 feet.

SCEDULE II – Permitted Principal, Permitted Accessory & Special Uses

	Zoning Districts							
Uses	**LF**	**I**	**AR-40**	**B**	**BR**	**R-15**	**H**	**Corridor Overlay**
Adult Use	NP	NP	SUP	NP	NP	NP	NP	UD
Agricultural uses	SP	SP	PP	SUP	SUP	NP	NP	UD
Bed-and-Breakfast	SP	SP	SP	SP	SP	SP	SP	UD
Big box retail	NP	NP	SUP	SUP	SUP	NP	NP	UD~~UD~~
Boathouses & Docks	PA	PA	PA	NP	SP	NP	PA	UD
Campground	NP	~~SUP~~NP	SUP	NP	NP	NP	NP	~~UD~~NP
Cemetery	NP	NP	SP	NP	NP	NP	NP	UD
Church	SUP	SUP	SP	SP	SUP	SUP	SUP	UD
Commercial/Service	NP	NP	SUP	SP	SP	NP	NP	UD
Commercial, small	NP	NP~~SP~~	SP	SP	SP	SP	SP	UD
Convenience store, retail	NP	NP	SUP	SP	NP	NP	NP	NUD~~UD~~
Dock	PA	PA	PA	PA	PA	PA	PA	UD
Digital sign, LED	NP	NP	SUP	SUP	SUP	NP	SUP	UD
Drive Through, Restaurant	NP	NP	SUP	SUP	NP	NP	NP	UD~~UD~~
Dwelling, Single Family	PP	PP	PP	PP	PP	PP	PP	UD
Dwelling, Two-Family	NP	~~PP~~NP	PP	PP	PP	PP	PP	UD
Dwelling, Multi-family	NP	NP	SP	SP	SP	SP	NP	UD
Dwelling, Multiple	NP	NP	SUP	NP	SUP	NP	NP	UD
Farm Stand/ Produce Sales	SP	SP	SP	SP	SP	SP	SP	UD
Fuel storage/supply	NP	NP	SUP	SUP	NP	NP	SUP	UD
Funeral home	NP	NP	SUP	SP	SUP	NP	NP	UD
Gasoline Service Station	NP	NP	SUP	SUP	NP	NP	NP	~~UD~~UD
Home Occupation	SP	SP	SP	SP	SP	SP	SP	UD
Hydrofracking	NP	NP	NP	NP	NP	NP	NP	NP
Institutional use	NP~~SUP~~	NP	SP	SP	SP	SP	SP	UD
Junkyard	NP	NP	SUP	NP	NP	NP	NP	UD~~UD~~

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Uses	LF	I	AR-40	B	BR	R-15	H	Corridor Overlay
Keeping of Domestic Animals	NP	NP	SUP	NP	NP	SUP	NP	UD
Kennel/ Animal Care Facility	NP	NP	SUP	NP	NP	NP	NP	UD
Light industrial use	NP	NP	SUP	SP	NP	NP	NP	UD
Marina- Commercial	NP	NP	NP	NP	NP	NP	SUP	UD
Marina - Small	NP	NP~~SUP~~	NP	NP	NP	NP	SUP	UD
Manufactured home- Single Wide	NP	NP	PP	NP	NP	NP	NP	UD
Manufactured home- Double Wide	PP	PP	PP	PP	PP	PP	PP	UD
Manufactured home park	NP	NP	SUP	NP	NP	NP	NP	UD
Mixed Use Project	NP	NP	SUP	SUP	SUP	SUP	NP	UD
Motel/hotel	NP	NP~~SUP~~	SUP	SUP	NP	NP	SUP	UD
Motor vehicle repair shop	NP	NP	SUP	SUP	NP	NP	NP	UD
Nursing home	NP	NP	SP	NP	SP	SP	NP	UD
Professional office	SUP	NP	SP	SP	SP	SP	SP	UD
Public utility	NP~~SUP~~	NP~~SUP~~	SUP	SUP	SUP	SUP	SUP	UD
Quarry/Mining Operation	NP	NP	NP~~SUP~~	NP	NP	NP	NP	NP~~UD~~
Recreation, outdoor	NP	NP	SUP	SUP	SUP	NP	NP	UD
Recreation, indoor	NP	NP	SP	SP	SUP	NP	NP	UD
Restaurant	SUP	SUP	SP	SP	SUP	NP	SP	UD
Retail, large product	NP	NP	SUP	SP	NP	NP	NP	UD
Retaining Wall, Bulkhead	SP	SP	SP	SP	SP	SP	SP	UD
Roof Mounted Wind Turbine Tower, Private	PA	PA	PA	PA	PA	PA	PA	PA
Self-Storage Facility	NP	NP	SUP	SUP	NP	NP	NP	UD
Senior citizen home	NP	NP	SP	SP	SP	SP	SUP	UD
Shopping Center	NP	NP	SUP	SUP	NP	NP	NP	UD~~UD~~
Social Organization	SP	SP	SP	SP	SP	SP	SP	UD
Solar System- Ground Mounted (Onsite Energy)	SUP	SUP	PA	SUP	SUP	SUP	SUP	UD
Solar Systems- Large Scale (Offsite Energy)	NP	NP	SUP	NP	NP	NP	NP	UD
Storage building <1,250 square feet	SUP	SUP	PA	PA	SP	PA	SP	UD
Storage building > or = 1,250 square feet	NP	NP	SP	SP	SP	NP	NP	UD

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Uses	LF	I	AR-40	B	BR	R-15	H	Corridor Overlay
Telecommunications Tower, un-camouflaged (refer to Article 8, Section 150-43, paragraph	NP	NP	SUP	NP	NP	NP	NP	NP
Telecommunications Tower, camouflaged or co-located (refer to Article 8, Section 150-43, paragraph	SUP	SUP	SUP	SUP	SUP	SUP	SUP	UD
Warehouse	NP	NP	SUP	SP	SUP	NP	NP	NPUD
Wind Energy Tower System, Small (SWETS)	NP	NP	SUP	NP	NP	NP	NP	NP
On premise sale/service of farm goods	NP	NP	SP	NP	SP	NP	NP	UD

KEY: UD = Refer to underlying district
NP = Not permitted within the district
PP = Permitted Principal Use
PA = Permitted Accessory Use
SUP = Special Use Permit required.
SP = Site Plan Review required.

The following are accessory uses and structures that are permitted in all zoning districts and to any lot size without the need of review by the planning board: boat ramps; decks; fences; hedges; garages; carports; personal recreation facility; guest accommodations; rummage sales; roof mounted solar panels; satellite dish/antenna; signs; storage sheds; steps; walks; wheelchair ramps; wells for potable water; shore wells; wells for heat pumps; cable upgrades to existing cell towers; blacktop driveways; patios; excavation, filling, grading of less than 500 square feet of land.

SCEDULE III – Parking Standards	
Auto sales	1 space per 2000 sq.ft. of display area.
Barbershop - beauty parlor	3 spaces per chair.
Campground/RV Park	0.5 parking space for each campsite in a common parking area in addition to a minimum of 1 parking space for each campsite at the campsite location
Car wash	four stacking spaces for each washing stall.
Church or synagogue	1 space for each 3.5 seats.
Club or lodge\public assembly hall.	1 space for each four persons maximum occupancy.
Convenience store	1 space per 250 sq.ft. gross floor area.
Day care center	1 space per staff member, and 1 off-street loading space per five students (designed to not cause students to cross the street or parking aisles.
Doctor, Dentist or Veterinarian office	5 spaces for each doctor, plus 1 space for every additional employee.
Drive-thru facility	5 off-street stacking spaces per drive-in lane, plus food - 1 space per 50 sq.ft. of eating area. For banks - they must also meet office requirements.
Dwellings	2 spaces for each dwelling unit.
Furniture store	1 space per 1,000 sq.ft. Of gross floor area.
Gasoline services station	1 space per gas pump, with a minimum of 5 spaces.
Golf course	4 spaces for each green, plus 50% of requirements for any other uses present.
Grocery store	1 space per 200 sq.ft. of product sales area.
Hardware store	1 space per 400 sq.ft. of product sales area.
Home occupation	Minimum 1 space, and 1 additional space for an employee if proposed.
Group home, Elderly housing	1 per employee - largest work shift plus 1 per each 5 clients. Elderly - 0.75 spaces per unit.
Hotel, Motel, resort or Bed & breakfast	1 space per guest room or dwelling unit.
Junkyard	2 spaces per acre + 1 per employee on largest workshift.
Kennel	1 per employee, + 1 per 1000 sq.ft.
Manufacturing operation	1 space for each employee in the maximum working shift, 5 for visitors.
Marina (Small and Commercial)/Dock	1 space for each dock space or each mooring buoy
Motor Vehicle repair shop	2 parking spaces for each service bay.
Movie theater	1 space per 5 seats.
Nursery or greenhouse	1 space per 1000 sq.ft. of total sales area.
Office	1 space per 300 sq.ft. of gross floor area.
Outdoor recreation	1 per 200 sq.ft. of bldg. area, plus one for each 3 persons of design capacity.
Research & development facility	1 space per 500 sq.ft. of gross floor area.
Recreation, Outdoor	1 space per peak attendance quantity
Residence	1.5 spaces per unit.
Restaurant / lounge area	1 spaces per ~~100 sq.ft. of eating area.~~2 person eating area
Outdoor retail	1 per 1000 sq.ft. of lot area used for display.
Retail store	1 per 300 sq.ft. of gross floor area.
Self-service storage facility	2 spaces for every 100 units of storage spaces.
Warehouse	1 space for each employee in the maximum work shift.

Commented [LW23]: Increase requested by Dave Poulin. Language taken from multiple municipality review.

Schedule IV – Additional Screening Requirements within the Corridor Overlay Zone

1. Earthen Berms – Screening shall consist of earthen berms a minimum of 6 feet in width at the base and a minimum of 6 feet in height with rows of trees planted in the berms

2. Trees – Trees shall be spaced at adequate distances to provide a proper screening effect. A minimum of ~~two~~ three rows of coniferous trees or shrubs spaced alternately is required to a height to adequately screen the allowed use from public roads and neighboring properties. Indigenous species are preferred but other species such as spruce or cedar to provide suitable screening are acceptable.

3. Fencing – In addition to the required screening consisting of berms and trees, adequate fencing ~~may~~ is required to the approval of the Town Engineer and Planning Board consistent with Section 150-62 G 4 (e) and for the safety of the public.

4. Screening – Screening shall be established and maintained to protect viewsheds within the Corridor Overlay Zone through all seasons. The allowed use will be constructed so it cannot be seen from adjacent roads or highways and from neighboring properties through all seasons. The screening will be selected to not change the existing character of the neighborhood.

Commented [LW24]: Original Zoning Committee Recommendation

Commented [LW25]: Original Zoning Committee Recommendation