

Town of Plattsburgh

Zoning

Ordinance

Revised February 2014

**ZONING ORDINANCE
TOWN OF PLATTSBURGH
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ARTICLE I GENERAL PROVISIONS

Section 1.1 Title

This Ordinance shall be known and may be cited as “The Town of Plattsburgh Zoning Ordinance” of the Town of Plattsburgh, Clinton County, New York

Section 1.2 Purpose

The purpose of this Ordinance is to promote the health, safety, morale, and the general welfare of the community, and to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements, under and pursuant to Article 16 of Chapter 62 of the Consolidated Laws, the height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

Section 1.3 Applicability

Except as otherwise provided, this Ordinance does not apply to uses, buildings, complexes of structures or projects which were lawfully in existence and have received a conditional subdivision or site plan approval, or, have a valid permit as of the date this Ordinance becomes effective. Any use which would otherwise be subject to this Ordinance, that has been discontinued for a period of one (1) year or more, shall be subject to review pursuant to the terms of this Ordinance before such use is resumed. Any use, building, complex of structures or project shall be considered to be in existence provided the same has received a conditional subdivision or site plan approval, has a valid permit, or, has been substantially commenced as of the effective date of this Ordinance or any amendment thereto, and is fully constructed and completed within one (1) year from the effective date of this Ordinance.

Section 1.4 Definitions

Words in the present tense include the future, the singular number includes the plural and the plural the singular; the word LOT includes the word PLOT or PARCEL and the word BUILDING includes the word STRUCTURE; the word OCCUPIED includes the words DESIGNED OR INTENDED TO BE OCCUPIED; the word USED includes the words ARRANGED, DESIGNED OR INTENDED TO BE USED.

Words and phrases that are not defined shall be given their usual meanings except where the context clearly indicates a different or specific meaning.

ACCESSORY BUILDING OR USE - A freestanding building or use that is clearly and customarily incidental and subordinate to the principal building or use and is located on the same lot with such principal building or use. To have an accessory building on a lot there must be a principal building already in existence.

ADULT DAY CARE CENTER – A licensed facility for aged, infirmed or disabled adults, which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere.

ADULT USE – Land, building, complex of structures or business, or part thereof, consisting of, including, or having the characteristics of any or all of the following:

1. **ADULT BOOKSTORE** – Having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
2. **ADULT CABARET** – (1) Devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; (2) A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.
3. **ADULT MOTION PICTURE THEATER** – A building, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
4. **LINGERIE FASHION MODELING** – Wherein live models wear and model lingerie for the pleasure of one or more patrons.

AGRICULTURAL USE – Use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry, including the construction, alteration or maintenance of agricultural roads, agricultural drainage systems and farm ponds. An agricultural use is commonly referred to as a farm.

AGRICULTURAL STRUCTURE – Any building or structure directly or customarily associated with agricultural use, including barns, stables and farm stands, but not including fences, ponds or roads.

AIRPORT - An area of land that is used or intended to be used for the landing and takeoff of aircraft, and including its buildings and facilities, if any.

AIRPORT ALLIED USES – Those uses that are either directly or indirectly related to the maintenance and operation of airplanes and airports, respectively. Uses include aircraft and

aircraft parts manufacture, airfreight terminals, aviation schools; aircraft repair shops, aviation research and testing laboratories, aircraft sales, equipment and parts storage.

AIRPORT LANDING AREA - That part of the airport that is used or intended to be used for landing and taking off of aircraft and the adjacent clear zone. In the case of the former Plattsburgh Air Force Base, this includes the paved runway 11, 760' x 300' and the adjacent clearways, which extend 750' each side of the centerline of the runway.

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

ANIMAL HOSPITAL – Any land, building, complex of structures or business providing health services and medical or surgical care to animals suffering from illness, disease, injury, deformity and other abnormal conditions, including related facilities such as laboratories and boarding facilities.

APPLICANT – A property owner or his duly authorized representative, as designated by an affidavit or authorization filed with the Town, who intends to undertake any development or other activity subject to these Regulations.

ASPHALT MANUFACTURING AND STORAGE – Any land, building, complex of structures or business used to process raw materials into asphalt and/or to temporarily store ingredient raw materials.

ASSISTED LIVING FACILITY – Any land, building, complex of structures or business usually occupied by the elderly that provides rooms, meals, personal care and supervision of self-administered medication. It may provide other services such as recreational activities, financial services, and transportation intended solely for residents.

AUTOMOBILE BODY WORK – The commercial repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, body and fender work, welding, painting, straightening, sanding, detailing and steam cleaning of vehicles.

AUTOMOBILE RENTAL FACILITY – A building, structure or premise used for the rental of motorcycles, automobiles or light trucks, which may include facilities for cleaning, detailing or repair of rental vehicles.

AUTOMOBILE REPAIR – Any land, building, complex of structures or business with facilities for servicing and detailing of motor vehicles. This shall not include rebuilding or reconditioning, collision services, body and fender work, painting, or any dismantling or disassembly of frame and exterior parts.

AUTOMOBILE SALES – The use of any land, building, complex of structures or other premise for the display, sale, rental or lease of new or used motorcycles, passenger cars or light trucks, including any detailing, preparation or repair work conducted as an accessory use.

BANNERS AND PENNANTS - Any advertising device affixed to poles, wires or ropes, such as banners, pennants, streamers, wind operated propellers, string lighting or other similar advertising media, but not to include properly displayed flags of city, town, state or country or any message sign or flag.

BASEMENT – That portion of a building wholly or partly underground but having at least one half of its height above finished grade.

BED AND BREAKFAST – A business operated in a structure, which is used primarily for providing overnight accommodations to the public, even though the owner or manager lives on the premises. The number of guest rooms may range from one (1) to no more than ten (10). The establishment shall not contain restaurant facilities, but may provide food service for transient guests only.

BREWERY/WINERY – An establishment involving the fermenting, blending, bottling and retail sales of wine, beer or other alcoholic drinks.

BUILDABLE AREA – The net portion of the lot remaining after deducting all required setbacks from the gross area of the lot. Also, the planimetric area of a building or any projection therefrom, including attached overhangs, canopies, vestibules, porches, decks, attached garages, etc.

BUILDING – Any structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

BUILDING ELEVATION – A fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors, and relationship of grade to floor level.

BUILDING FRONT/FACE - The outer surface of a building, which is visible from any private or public street or highway.

BUILDING SETBACK: The least horizontal distance permitted between a lot line and the nearest portion of any building on such lot.

BULK STORAGE – The storage of chemicals, petroleum products, grains, and other materials in structures for subsequent resale to distributors or retail dealers or outlets.

BUS TERMINAL – Any premises for the storage or parking of motor-driven busses and the loading and unloading of passengers. Bus terminals may include ticket purchase facilities, restaurants and stores.

BUSINESS/PROFESSIONAL OFFICE – A building or portion thereof used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include auxiliary services for office workers.

CARWASH – A building or portion thereof, containing facilities for washing automobiles using manual or automated methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this ordinance, coin-operated devices operated on a self-service basis shall be construed to be the same.

CELLAR – A story partly underground and having one half (1/2) or more of its clear height below finished grade. A “cellar” shall not be counted as a story in determining the building height.

CEMETERY – Property used for internment of the dead.

CHILD DAY CARE CENTER - A facility in which child day care is provided on a regular basis to six (6) or more children for more than three hours per day per child for compensation. This does not include nursery schools, kindergartens or other facilities for which the purpose is primarily educational, recreational, or medical treatments. A Child Day Care Center may not be located within a residence. Child Day Care Center Facilities are also regulated by the State of New York.

CHILD DAY CARE CENTER, IN-HOME – A facility in which child day care is provided on a regular basis to less than six (6) children for more than three hours per day per child for compensation and which is located within a residence. This does not include nursery schools, kindergartens or other facilities for which the purpose is primarily educational, recreational, or medical treatments. In House Child Day Care centers may be regulated by the State of New York.

CLEARWAY – (1) For turbine engine powered airplanes certificated after August 29, 1959, an area beyond the runway, not less than five hundred (500) feet wide, centrally located about the extended centerline of the runway, and under the control of the airport authorities. The clearway is expressed in terms of a clearway plane, extending from the end of the runway with an upward slope not exceeding 1.25 percent, above which no object nor any terrain protrudes. However, threshold lights may protrude above the plane if their height above the end of the runway is twenty-six (26) inches or less and if they are located to each side of the runway. (2) For turbine engine powered airplanes certificated after September 30, 1958, but before August 30, 1959, an area beyond the takeoff runway extending no less than three hundred (300) feet on either side of the extended centerline of the runway, at an elevation no higher than the elevation of the end of the runway, clear of all fixed obstacles, and under the control of the airport authorities.

CLINIC – Any land, building, complex of structures or business where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other

medical personnel, psychologists, or social workers and where patients are not usually lodged overnight.

COMMERCIAL DEVELOPMENT, ALLOWED – Any land, building, complex of structures or business with one (1) or more business units adjoining or on the same lot.

COMMERCIAL VEHICLE – Any vehicle in excess of 10,000 pounds licensed by New York State for commercial use. Travel trailers and recreational vehicles are not commercial vehicles.

COMMERCIAL WIND ENERGY FACILITY – Any wind energy facility in excess of capacity or height of a small wind energy facility that generates electricity.

COMMUNITY CENTER – A building used for recreational, social, educational, and cultural activities, open to the public, owned and operated by a public or nonprofit group or agency.

CONDOMINIUM – A multi-family project of one family dwelling units, which may consist of one or more buildings wherein the real property title and ownership are vested in an owner having an undivided interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for.

CONFERENCE CENTER – Any land, building, complex of structures or business used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

CONCRETE MANUFACTURING AND MIXING PLANT – Any land, building, complex of structures or business and facilities thereon used to process raw materials into concrete and to temporarily store ingredient raw materials.

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

CREMATORY – An establishment containing a furnace for the cremation of deceased persons or pets.

CUT-OUT OR CUT-OUT LETTERS – Any letters, numbers, emblems or symbols which are separately molded and attached to any surface.

DECK - A “structure” attached to or adjoining a house, other principle “building,” or above ground “swimming pool,” consisting of one of more planes constructed of wood, metal and/or other materials and located above the surface of the earth on or including a support system of footings and foundations, piers, pilasters, columns, posts, joist, stringers and beams or any of them, and including any railings or open enclosure thereof and including any stairs, ramps or

other devices connecting one level with another, with ground and/or with the adjoining "structure."

DISTRICTS - An area, section or zone of the Town described on the accompanying zoning map and in which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DRIVE-THROUGH USE – An establishment which is permitted in the district in which it is located that by design, physical facilities, services or packaging, procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

DWELLING - Any building with one or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

DWELLING, MULTI-FAMILY - A dwelling accommodating or designed to accommodate three or more families in separate dwelling units, including condominiums and apartment houses.

DWELLING, SINGLE FAMILY - A dwelling accommodating or designed to accommodate a single family in one dwelling unit. Single family dwelling units include modular homes that do not require HUD approval.

DWELLING, TWO FAMILY - A dwelling accommodating or designed to accommodate two families in two adjoining dwelling units, sometimes referred to as a duplex.

DWELLING UNIT (DU) - Any dwelling or portion of any building, or complex of structures used or intended to be used by one family, and providing complete housekeeping facilities therein.

DWELLING, WATCHMAN'S – A dwelling inhabited by a business employee whose function is related to the security of the land, building(s), and/or complex of structures associated with the business. Said dwelling is on the same or adjacent parcel as the business being protected.

EDUCATIONAL INSTITUTION – Any land, building or complex of structures authorized by the state to award degrees in courses of study.

EPA APPROVED WOOD BOILER – An indoor or outdoor wood-burning boiler device that has been tested and demonstrated to meet current United States Environmental Protection Agency (EPA) emission standards for such device, and has received certification of approval from the EPA.

EQUIPMENT SALES – The use of any land, building, complex of structures or other premise for the display, rental, lease or sale of farm equipment, machinery, boats, trailers, recreational vehicles or industrial machinery, including any rental, lease, preparation or repair work conducted as an accessory use.

ERECT - To build, construct, re-erect, alter, display, replace, relocate, attach, hang, place, suspend, affix or excavate a building or structure.

FAMILY - An individual, or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than six (6) persons who are not so related living together as a single housekeeping unit.

FARM ANIMAL, LARGE – Any breed or variety of alpaca, buffalo, cow, camel, deer, donkey, elk, emu, goat, horse, llama, mule, ostrich, reindeer, sheep or swine.

FARM ANIMAL, SMALL – Any breed or variety of fowl or poultry, as well as any fur bearing animal.

FARM STANDS – A booth or stall from which produce and farm products are sold to the general public.

FARM ANIMAL TRANSFER STATION – A place where farm animals are temporarily loaded, unloaded and housed prior to transport to another location.

FARM WORKER HOUSING – Dwelling units located on an active farm which are accessory to the agricultural use and are occupied by employees of the farm or members of the farm household and their guests. Farm worker housing may consist of single or multi-family dwellings or buildings, including single or double-wide trailers and mobile homes, and/or apartments. Farm worker housing shall be located on the same parcel as the agricultural use and may not be subdivided from the agricultural use. Farm worker housing may not be rented to persons not primarily employed on the farm on which it is located.

FERRY – A place where boats land to load and unload passengers and freight and which may include docks, parking and administrative offices.

FINANCIAL INSTITUTION – Any land, building, complex of structures or business such as a bank and savings and loan, credit agency, investment company, broker and dealer of securities and commodities, and security and commodity exchange.

FIREWOOD – Trunks and branches of trees and bushes, but not including leaves, needles, vines or brush smaller than three inches (3”) in diameter.

FLIGHT HAZARD - Any structure or natural growth or use of land, which obstructs or restricts the air space required for the safe flight of aircraft landing, taking off or maneuvering at or in the vicinity of an airport.

FRONT LINE OF A BUILDING - The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include steps.

FUEL DISPENSING STATION – A pump where fuel is drawn from underground storage tanks, measured and dispensed to motor vehicles for retail sale. A fuel dispensing station may contain multiple hoses for dispensing fuels of different grade or type.

FUEL STORAGE FACILITY - A facility designed for the commercial storage and dispensing of fuel oil, gasoline, kerosene or other dry, liquid, pellet or powdered fuel or chemical products in tanks with an individual capacity of more than 10,000 gallons. Fuel Storage Facilities may not provide for retail sale.

FUNERAL HOME – An establishment used for the storage and preparation of the deceased for burial or cremation and the display of the deceased and rituals connected therewith prior to burial or cremation. A Funeral Home may not include a crematory.

FUR BEARING ANIMAL – Any breed or variety of badger, ferret, guinea pig, mink, muskrat, otter, rabbit, raccoon, skunk, or opossum.

GAME PRESERVE – An area of land in which game, fish, etc. is protected for private use in hunting or fishing.

GARAGE, PRIVATE – A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC – Any land, building, complex of structures, business or portion thereof other than a private customer or employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GASOLINE STATION – Any land, building, complex of structures or business, or portion thereof, that is used or designed to be used for the sale of gasoline, oil, or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment.

GAZEBO – A freestanding, roofed, usually open-sided structure providing a shady resting place.

GOLF COURSE – Any land, building, complex of structures or business laid out for playing the game of golf including tees, greens, fairways, and hazards and that may include a clubhouse or shelter and a driving range. This term shall not include those uses commonly known as miniature golf courses.

GREENHOUSE, COMMERCIAL – Any land, building, complex of structures or business that includes a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the

cultivation of delicate or out-of-season plants for subsequent sale. This term shall include commercial nurseries and commercial gardens.

HEALTH AND FITNESS CENTER – Any land, building, complex of structures or business offering or providing facilities for, and instruction in, general health, physical fitness and controlled exercises such as, but not limited to, racquet ball, hand ball, martial arts, weight lifting, calisthenics, aerobic/slimnastic dancing, tennis, and basketball. Such use may also provide swimming, saunas and steam baths.

HEAVY EQUIPMENT – Any vehicle, piece of construction equipment or apparatus with a gross vehicle weight of ten thousand (10,000) pounds or more.

HEIGHT, BUILDING - The vertical distance measured from the average elevation of the proposed grade line of the ground about the building to the highest point of the building exclusive of chimneys, steeples, antennas, and other appurtenances.

HEIGHT, TOTAL – With respect to wind energy facilities, total height means the vertical distance from the ground level to the tip of a wind generator blade when the tip is at the highest point.

HISTORIC LANDMARK – Any building, structure or site designated as historic by the National Register of Historic Places, and/or included in a recognized historic district. This is to include both national and the State of New York Registers.

HOME OCCUPATION – Any personal, professional, service or business use conducted in entirely within a dwelling or accessory building and carried on by a member of the family residing there, or one other outside person, which use is clearly incidental and secondary to the use of the property for residential purposes and is an allowed use as specified within this ordinance.

HOSPITAL – Any land, building, complex of structures or business providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical and mental conditions and including as an integral part of the institution related facilities such as laboratories, training facilities, medical offices, staff residences and outpatient facilities. Outpatient treatment may include treatment by one or more physicians, dentists, chiropractors, psychiatrists, psychologists, social workers or other medical professionals.

HOTEL – Any land, building, complex of structures or business offering transient accommodations to the general public and which may provide additional services, such as restaurants, meeting rooms, entertainment and recreation facilities. A hotel may also be known as a motel.

HUB – Part of a wind energy turbine that connects the blades at their central meeting point.

HUB HEIGHT – The distance measured from the lowest level or portion of the wind energy facility (slab or base) in contact with the ground surface to the center of the hub.

INDUSTRIAL PLANT – Any land, building, complex of structures, business operation or portion thereof wherein products or articles are assembled, processed, prepared for transfer to another location, and/or loaded or unloaded onto/off modes of transport for immediate or eventual transfer to another location. Raw materials and finished products may be stored outdoors at an industrial plant.

INDUSTRIAL/MACHINE SHOP – Any building, complex of structures or business, or portions thereof, wherein activities related to industrial trades and crafts are practiced. This term shall include but not be limited to woodworking; printing; tool, die and pattern making; welding; and, metal crafts, and includes the use of power-driven tools for making, finishing, or repairing machines or machine parts.

KENNEL – Any land, building, complex of structures, business or portion thereof on/in which dogs or other domesticated small animals are housed, groomed, bred, boarded, trained or sold.

LAND USE ACTIVITY – Any activity, which materially changes the use or appearance of land or a structure or the intensity of use of land or a structure. Land use activity shall explicitly include, but not be limited to, the following: construction of new structures; expansion of existing uses, buildings, and complexes of structures; roads; parking; signs; lighting, except single family and two family dwellings; lighting; driveways, except single family and two family dwelling lighting; mining for the purpose of extracting soils or mineral deposits; and demolitions. Land Use Activity shall not include landscaping, grading, clearing, grubbing or logging.

LAUNDROMAT – A facility where patrons wash or dry clothing or other fabrics in machines operated by the patron or employees of the Laundromat.

LIGHTING DEVICE - Any light, string of lights, or group of lights located or arranged so as to cast illumination.

LIVABLE SPACE - The aggregate of the area of all habitable rooms within the dwelling unit excluding garages, breezeways, cellars, porches and decks.

LOT – A parcel of land devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT, CORNER – A lot or parcel of land abutting on two or more streets at their intersection or on two parts of the same street forming an interior angle of less than 135 degrees. A corner lot may have two front yards; or, the front and side yards of a corner lot may be designated during the subdivision review process. If not designated on the subdivision plan, the front and side yards shall be designated by the Zoning Enforcement Officer.

LOT DEPTH – The mean horizontal distance between the front and rear lines of a lot.

LOT LINE, COMMON – A lot line shared between two (2) adjoining uses.

LOT LINE, FRONT - In the case of a lot abutting upon only one street is the line separating such lot from such street.

LOT LINE, REAR - That lot line which is opposite and most distant from the front lot line. On corner lots with two front yards, the lot line most distant from the front line is the rear lot line. If the two opposite lines are equidistant, the rear lot line shall be designated on the subdivision plan, or if no such designation has been made, by the Zoning Enforcement Officer.

LOT LINE, SIDE - That lot line not a front lot line or a rear lot line.

MANUFACTURED HOME – Factory-built housing constructed after June 15, 1976 in accordance with the federal building code, administered by the Department of Housing and Urban Development (HUD) and which requires the approval of HUD. Manufactured homes may be single-section or multi-section and are transported to the site and installed. A modular home which does not require HUD approval is a type of single family dwelling unit, not a manufactured home. A mobile home is a type of manufactured home.

MANUFACTURED HOME PARK - Any lot on which two or more manufactured homes are located, regardless of whether or not there is charge for such accommodations.

MANUFACTURED HOME SALES – An establishment where manufactured homes are sold to the public for occupancy at another location.

MANUFACTURING – Any business process whereby the nature, size or shape of articles is changed into a product which generally shall be a finished product which ordinarily would not be stockpiled in an outdoor storage area.

MARINA – A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include eating, sleeping, and retail facilities for owners, crews, and guests.

MEAN HIGH WATER MARK - The average annual high-water level of a body of water.

MINING – The extraction or removal of sand, gravel, clay, topsoil, mulch, stone or other natural material deposits for use and/or sale, except that the extraction of oil and natural gas shall not be allowed. This term shall be interpreted to exclude mining on-site for agricultural purposes and to exclude the removal of soil, loam, sand, gravel or quarried stone when incidental to, or connected with a proposed subdivision or site plan (which subdivision has been given a conditional approval from the Town) or the removal of excess excavated material for any building, complex of structures or project that is authorized and in accordance with this Ordinance.

MOBILE HOME – Any vehicle or similar portable structure, with or without a foundation or wheels, jacks, skirting, wood, steel, brick or masonry block supports, designed or constructed to be towed or otherwise transported to its resting site, and which is further designed to permit occupancy for dwelling or sleeping purposes. The term mobile home shall also include the term “house trailer.” A mobile home is a type of manufactured home.

MODULAR HOME – A single- family or two-family dwelling composed of two or more components, each of which was substantially assembled in a manufacturing plant and which, when combined on a foundation, constitute a dwelling meeting the standards set forth in Part 1211 of the NYS Uniform Fire Prevention and Building Code. A modular home, if not subject to HUD approval, is a type of single family dwelling unit and is not a manufactured home.

MUSEUM – Any land, building, complex of structures, business or portion thereof open to the public, used for education and display of matters of a historical, scientific, technological, natural or similar nature.

NEIGHBORHOOD CONVENIENCE STORE – Any land, building, complex of structures, business or portion thereof selling basic foods and household items. The intent of such a facility is to address transient or last minute needs, not supply a full complement of groceries and household supplies. Individual fuel dispensing stations, not to exceed three (3) in number, may be a component of this use, if allowed by Schedule A.

NIGHT CLUB – An establishment dispensing alcoholic beverages and food in which music, dancing or entertainment is conducted.

NON-CONFORMING USE - A building, complex of structures, business, or use of land lawfully in existence, or a project which has received conditional approval from the Town (i.e., subdivision or site plan) or has received or is in possession of a valid permit at the time of enactment of this Ordinance, or an amendment thereto, and which does not conform to the regulations of the district in which it is situated.

OPEN SPACE – That portion of a parcel, which is not a building or other impervious area, parking area, storage space or display area.

PARK or PARKING – The standing of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

PARKING AREA OF A SHOPPING CENTER – An area of private property totaling at least one (1) acre, near or contiguous to and provided in connection with premises having more than one store or business establishment and used by the public as a means of access to and egress from such store and business establishments and for free parking of motor vehicles.

PARKING GARAGE – A building or structure consisting of more than one level used to store motor vehicles.

PARKING SPACE – A space for the parking of a motor vehicle within a public or private parking area.

PERFORMING ARTS CENTER – Any land, building, complex of structures, business or portion thereof for housing the visual and/or performing arts.

PERMIT – Certification by the Town Zoning Enforcement Officer that a proposed land use activity has received all necessary approvals and is in compliance with this Ordinance.

PERSON - Any individual, firm, partnership, association, corporation, company, institution or organization of any kind.

PLACE OF WORSHIP – Any land, building, complex of structures, business or portion thereof, which by design and construction are primarily intended for use by groups or persons to conduct organized religious services and the accessory uses associated therewith. This shall include uses commonly known as churches, temples, mosques, parish houses, monasteries and convents.

PORCH – A roofed-over structure projecting from the wall or walls of a main structure, whether or not open to the weather. It shall be deemed to be a part of the building.

PRINCIPAL BUILDING – A building(s) in which the main or principal use of the lot is located. Any building, which provides sleeping quarters, shall be considered a principal building, except that Farm Worker Housing shall be considered an accessory building to an agricultural use.

PRODUCT DISPLAY AREA – An outdoor area used for the sale and display of products. A product display area may not be located within a building setback area, unless allowed pursuant to an approved site plan. A required open space area may not be used as a product display area.

PUBLIC BUILDING/USE – A building used for public purposes by any department or branch of town, county, state or federal government including libraries, museums, post offices, police and sheriff sub-stations, jail, and rescue or fire stations.

PUBLIC RIGHT OF WAY – A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

PUBLIC UTILITY – Any non-town land, building, complex of structures, business or portion thereof 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, internet, water, sewer, cable, and public transit, to the public, unless otherwise regulated by Town Law No. 3 of 2003, A Local Law Regulating the Siting of Wireless Telecommunications Facilities.

QUALIFIED PROFESSIONAL – With respect to the preparation of stormwater management plans, a licensed professional engineer, registered landscape architect or other individual endorsed by the New York State Department of Environmental Conservation to prepare such plans.

QUALIFIED WIND ENERGY INSTALLER - A person who has skills and knowledge related to the construction and operation of wind energy equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible wind energy installers maintained by the New York State Energy Research and Development Authority (NYSERDA) shall be deemed to be qualified wind energy installers. Persons who are not on NYSERDA's list of eligible wind energy installers may be deemed qualified wind energy installers if the Town 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 safely install wind energy components such as towers, inverters, and electrical wiring, to distinguish exposed energized parts from other parts of electrical equipment, and to determine the nominal voltage of exposed live parts.

RAIL FACILITY – An area for the storage and repair of trains, as well as the loading, unloading and storage of goods and materials. A rail facility may include open storage yards, rail-switching equipment, roundhouses and workshops.

RECREATION FACILITY – Any land, building, complex of structures, business or portion thereof designed and equipped for the conduct of sports and leisure time activities and educational activities.

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

RECREATION FACILITY, PUBLIC – A recreation facility open to the general public. This term shall include public parks, playgrounds, athletic fields, etc.

RECREATION TRAILS – A network of trails designed for non-motorized recreational use.

RECREATIONAL VEHICLE:

1. A vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:
 - a. Travel Trailer: A vehicular, portable dwelling unit built on a chassis, being of any length.

- b. Motorized Camper: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - c. Tent Trailer: A folding structure, consisting of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
2. A vehicle which provides sleeping and other facilities for short periods of time, while traveling or vacationing, designed to be towed behind a motor vehicle, or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes or other similar vehicles.
3. Any vehicle so constructed suitable for being attached to a motor vehicle for the purpose of being drawn or is self-propelled, and is capable of being used on a short term recreational basis for living, sleeping or eating accommodation of persons. The term recreational vehicle includes motor homes, travel trailers, tent trailers and campers.

RESEARCH AND DEVELOPMENT FACILITY – Any land, building, complex of structures, business or portion thereof for carrying on investigation in the natural, physical or social sciences which may include engineering and product development.

RESIDENCE - Any dwelling suitable for habitation existing in the Town of Plattsburgh on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, nursing homes, schools or other buildings used for educational purposes or correctional institutions.

RESTAURANT – Any land, building, complex of structures, business or portion thereof where food and/or drink, including alcoholic beverages, are prepared, served, and consumed primarily within the principal building.

RESTRICTED PARKING AREA – Any parking area marked, signed or otherwise posted as a designated area by the shopping center authority, including but not limited to: five (5) minute zone, fire lane, loading zone.

RETAIL SALES – Any land, building, complex of structures, business or portion thereof engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIDING ACADEMY – Any land, building, complex of structures, business or portion thereof where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and where horses may be hired for riding.

ROOF LINE – The profile of a roof.

ROOF-MOUNTED SMALL WIND ENERGY FACILITY – A small wind energy facility that is specifically designed for installation on roofs or other elevated surfaces of buildings.

ROTOR DIAMETER – The diameter of the imaginary circle made by the tips of the blades of any wind energy facility.

ROTOR RADIUS – Half the length of the rotor diameter.

SCHOOL, PAROCHIAL – Any land, building, complex of structures, business or portion thereof, supported and controlled by a church or religious organization, that provides a full-time day instruction and meets the state requirements for elementary or secondary education.

SCHOOL, PRIVATE – Any land, building, complex of structures, business or portion thereof which meets state requirements for elementary, secondary or higher education and which does not secure the major part of its funding from any governmental agency.

SCHOOL, PUBLIC – Any land, building, complex of structures, business or portion thereof providing full-time day instruction and a course of study which meets the requirements of Sections 3204, 3205, and 3210 of the New York State Education Law.

SELF-SERVICE STORAGE FACILITY – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

SHOPPING CENTER – Any retail shopping use that maintains a public parking area that exceeds one (1) acre in size.

SIGN - Any material, structure or device or part thereof, composed of lettered or pictorial matter or upon which lettered or pictorial matter is placed when used or located for display of an advertisement, announcement, notice, informational, directional matter, or name, and includes any portable, fixed, temporary or permanent sign frames, billboards, sign boards, roof signs, painted walls, wall signs, hanging signs, free-standing signs, exterior window signs, pennants, banners, fluttering or waving devices, projecting signs or ground signs, balloons affixed to the ground in any manner and also include any announcement, declarations, demonstrations, displays, illustration or insignia, any letter, word, number, clock, thermometer, light or combination of lights, used to advertise or promote the interest of any person or business when the same are placed in view of the general public, except however, that any of the above which is placed inside of a building where it is visible through a window shall not be considered or regulated as a sign.

SIGN, ACCESSORY - Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

SIGN, ANIMATED - Any sign or an intermittent or flashing circuit or the movement of any light used in connection with any sign, such as a blinking, traveling, flaring or changing degree of intensity.

SIGN AREA - (1) The area of a sign shall be computed from the algebraic sum of the actual sign configuration, be it square, rectangle, circle, oval or other polygon shape. The area shall be measured from the outer dimensions of the frame, trim or molding by which the sign is enclosed, where they exist, or from the outer edge of the signboard where they do not exist. (2) When a sign consists of individual letters, symbols, or characters, its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols and characters. (3) When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within 12 inches of each other. Otherwise, all faces of the sign shall be used to compute the sign area. (4) The volume of a representational sign shall be computed as the volume of the smallest rectangular box which encompasses the mass of the three-dimensional sign or characterization.

SIGN, ATTACHED – A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not extend horizontally more than twelve (12) inches from such building, wall, or structure.

SIGN, AWNING – Any visual message incorporated into an awning.

SIGN, CHANGEABLE COPY – A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than twice per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this chapter.

SIGN, CONSTRUCTION – A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

SIGN, EXTERNALLY LIT - Any sign illuminated by a lighting device and reflecting the light thereof, but not emitting any light and therefore not an internally lit sign.

SIGN, FLASHING - An illuminated sign in which the artificial light is not maintained in a stationary or constant intensity.

SIGN, FREE-STANDING – A sign, supported by one (1) or more components, that is not attached to a building(s).

SIGN, INFORMATIONAL - Any sign not exceeding three (3) square feet and with lettering not exceeding six (6) inches in height designed to direct and inform the public as to the location of exits, entrances, service areas, loading and unloading areas, or similar wording of an informational nature.

SIGN, INTERNALLY LIT - Any sign illuminated from within by electricity, gas or other artificial light, including reflective or phosphorescent light.

SIGN, MESSAGE – A sign or flag which contains a message other than an advertising message, such as one supporting the military, not-for-profit or similar organization.

SIGN, MONUMENT – An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

SIGN, NAMEPLATE - Any sign not more than one (1) square foot in area used to identify the owner or occupant of a private residence.

SIGN, OFF-PREMISE - Any sign advertising or calling attention to any business or activity not located on the same continuous parcel of real estate as the sign; any sign advertising or calling attention to any commodity or service not sold or offered upon the same parcel of real estate as the sign.

SIGN, PROJECTING – An attached sign which extends horizontally or perpendicularly more than twelve (12) inches from the plane of a building, wall or structure.

SIGN, READER BOARD/COPY CHANGE – A sign on which the visual message may be periodically changed.

SIGN, SUSPENDED – A sign hanging down from a marquee, awning, porch or another sign.

SIGN, TEMPORARY - Any sign relating to an activity or event that is displayed for not more than an aggregate of sixty (60) days in any calendar year.

SITE PLAN – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utilities, structures and buildings, signs, lighting, berms, buffers and screening devices, surrounding development, and any other information required by Article VII for the Planning Board to make an informed decision on an application.

SMALL WIND ENERGY FACILITY - A wind energy facility that generates and supplies power primarily to on-site residential, agricultural, industrial or commercial use existing on the same parcel or the adjoining lot that is under common ownership to the on-site use which it is

intended to be accessory to and has a nameplate capacity of 100 kilowatts or less and has a total height of one hundred feet (100') or less.

SPECIAL USE PERMIT – A discretionary approval that may be granted under the provisions of this Ordinance and which when granted authorizes a specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the approval.

SPECIFIED ANATOMICAL AREAS – Includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areole; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – Includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated, or (4) excretory functions as part of or in connection with any of the activities set forth in (1) through (3), above.

STOP – When required means complete cessation from movement.

STOP OR STOPPING – When prohibited means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic sign or signal.

STORAGE YARD – Any land, building, complex of structures, business or portion thereof used for the temporary holding of raw or produced materials including, but not limited to, building materials; coal, coke and wood.

STRUCTURE – Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, towers, poles, mobile homes, walls, gazebos, docks, signs, billboards and poster panels. A fence is not regulated as a structure.

TECHNOLOGY MANUFACTURING – Any business that is engaged in the research or manufacturing of technology related products, including those related to nanotechnology, semi-conductors, computers, electronics, photovoltaics, communications, avionics, energy, transportation, weapons, health, medicine, pollution control and sustainable materials.

TERRACE – A level plane or surfaced patio, directly adjacent to a principal building at or within one (1) foot of grade and not covered by any permanent structure, without rails or steps.

THEATER – A building or part of a building, whether indoor or out of doors, devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

TOWNHOUSE - A dwelling accommodating or designed to accommodate a single family in a single dwelling unit, the walls on one or two sides of which are in common with the walls of adjoining dwellings and are party or lot line walls.

TRAFFIC CONTROL DEVICES – All signs, signals, markings and devices placed or erected by authority of a public body or persons having jurisdiction for the purpose of regulating, warning or guiding traffic. All traffic control devices shall be designed and installed in accordance with the Manual for Uniform Traffic Control Devices (MUTCD).

TURBINE HEIGHT - Total height of a wind energy facility as measured from the lowest level or portion of the wind energy facility (slab or base) in contact with the ground surface to the furthest most vertical extension of any blade tip.

UNIFORMITY RATIO – The ratio of the average illumination ratio to the minimum illumination ratio.

UNTREATED LUMBER – Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

VEHICLE DISPLAY AREA – An area used for the display of new or used vehicles at an Automobile Sales use.

WAREHOUSE/DISTRIBUTION FACILITY– Any land, building, complex of structures, business or portion thereof intended for the temporary storage or holding of products or articles for use in moving, assembly, manufacturing, or distribution, and including facilities for the distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle.

WHOLESALE BUSINESS – Any land, building, complex of structures, business, or portion thereof, engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY FACILITY - The structures and associated equipment which convert wind energy into usable mechanical or electrical energy, including towers, turbines, guy wires, associated anchors and foundations, mounts, connected facilities such as generators, alternators, inverters and batteries, and other associated equipment.

WOOD BOILER, INDOOR/OUTDOOR – Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. A wood boiler must be approved by the Environmental Protection Agency.

YARD - The space on a lot not occupied by a building.

YARD, FRONT - A yard between the front lot line and the front line of a building extended to the side lot lines of the lot.

YARD, REAR - A yard between the rear lot line and the rear line of the principal building extended to the side lot line(s) of the lot.

YARD, SIDE - A yard between the principal building and a side lot line and extending from the front yard to the rear yard, excluding the front and rear yards.

ARTICLE II LAND USE DISTRICTS

Section 2.1 Establishment of Districts

For the purpose of this Ordinance, the Town is hereby divided into classes of zoning districts as follows:

Residential Districts

R-1 Residential District

The purpose of the R-1 Residential District is to provide for relatively high density single-family residential neighborhoods in areas served by public water and sewer.

R-2 Residential District

The R-2 Residential District comprises most of the Town's developable land outside of its commercial and industrial core. Most of the R-2 District is not served by public water and sewer. The R-2 District provides for a variety of housing types, including one and two-family homes, apartments and townhouses, as well as agricultural uses and other low-impact, compatible uses.

R-3 Residential District

The R-3 District is limited to the Champlain Park neighborhood and surrounding vacant land on Cumberland Head. It is intended to provide for one and two-family development and to provide for higher densities where public water and sewer are present.

R-4 Residential District

The R-4 District is intended for relatively low-density one and two-family residential uses on Cumberland Head, as well as agricultural uses.

MH Manufactured Home District

The MH Manufactured Home District provides for a variety of housing types, including both individual mobile homes and manufactured home parks. It is the only district in the Town where new manufactured home parks are allowed.

MDR Medium Density Residential

The MDR Medium Density Residential District is located adjacent to the City of Plattsburgh and the former Plattsburgh Air Force Base. It is intended to provide for medium density multi-family housing.

Commercial Districts

NC Neighborhood Commercial District

Neighborhood Commercial Districts allow residential development as well as small scale commercial development. The scale of commercial development is intended to be limited, meeting the needs of surrounding neighborhoods rather than providing a regional shopping destination.

C Shopping Center Commercial District

The Shopping Center Commercial District is intended to accommodate and promote commercial uses at a slightly less intensive scale than the Service Commercial District, including shopping malls and uses with a regional draw.

SC Service Center District

The Service Center District is intended to accommodate commercial uses at a slightly greater intensive scale than the Shopping Center Commercial District. It is the most intensive commercial district in the Town of Plattsburgh.

A1 Airport 1 District

The Airport 1 District is intended to provide for manufacturing and related uses associated with the development of the Plattsburgh International Airport.

A2 Airport 2 District

The Airport 2 District is intended to accommodate more intensive manufacturing and related uses than the A1 District associated with the development of the Plattsburgh International Airport.

Industrial Districts

I Industrial District

The I Industrial District is intended to accommodate a wide range of industrial uses.

IP Industrial Park District

The IP Industrial Park District is intended to accommodate planned industrial parks.

Other Districts

AD-C Airport Development District – Riverfront Conservation Sub-District

The Riverfront Conservation Sub-District encompasses portions of the Airport Development District that are to be preserved in perpetuity. This sub-district shall support both passive and active recreation and provide for waterfront access, while preserving the area's natural resources. As a conservation area, priority shall be given to the protection of its natural, cultural, and visual resources.

AD-MU Airport Development District – Mixed-Use Sub-District

The purpose of the Airport Development District Mixed Use Sub-District (MU) is to promote the development of an orderly, mixed-use, pedestrian-friendly neighborhood. This sub-district provides for a mix of commercial and residential uses. It is important that the scale (i.e., size, density, separation) of development be consistent with and allow for the smooth transition to the Technology/Business and Riverfront Conservation Sub-District.

AD-IND Airport Development District – Technology/Business Sub-District

The purpose of the Airport Development District Technology/Business Sub-District is to promote the development of technology and/or professional oriented businesses and industries. Such facilities shall physically and environmentally complement the sub-district's adjacent land uses, and not detract from its quality of life.

PDD Planned Development District

Planned Development Districts provide a mechanism for innovative development plans that do not fit with conventional zoning patterns. Innovation in use and design is specifically encouraged in this district. Planned Development Districts are allowed in Shopping Center Commercial, Service Center and Neighborhood Commercial Districts, as well as those portions of the R-2 District designated on the zoning map as PDD Overlay District.

WPOD Wellhead Protection Overlay District

This district provides for restrictions within 1,000 feet of the Town's public water supply wells in order to protect these drinking water sources.

L Land Conservation District

The Land Conservation District provides for low-impact agriculture, open space and recreation uses benefitting the residents of the Town.

Section 2.2 Zoning Map

The Town's zoning districts are shown, defined and bounded on the map accompanying this Ordinance, entitled Town Zoning Map. Said map and all explanatory matter thereon is hereby made a part of this Ordinance.

Section 2.3 District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines of highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the center lines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said Zoning Map.
- D. Where, after application of A. – C. above, uncertainty exists in determining the precise location of any district boundary line, the Board of Appeals shall interpret the intent and purpose of the Zoning Map.

Section 2.4 Lots in More than One District

Where a district boundary line divides a legally existing lot of record, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the most restricted portion, provided that the lot has frontage on a street in the less restricted portion.

ARTICLE III USE AND AREA REGULATIONS

Section 3.1 Permitted Uses

- A. The general use regulations for each land use district are set forth in the attached Schedule A, Land Uses. This Schedule is supplemented, as appropriate by other provisions of this Ordinance.
- B. Any use which is not listed specifically in the attached Schedule A shall be considered a prohibited use in all land use districts.

Section 3.2 Area Regulations

The area requirements in each land use district are set forth in the attached Schedule B, Area Regulations. This Schedule is supplemented, as appropriate, by other provisions of this Ordinance.

Section 3.3 Existing Lots

Other provisions of this Ordinance notwithstanding, nothing shall prohibit the issuance of a permit for a single-family dwelling in a residential district, on a lot previously approved by the Town of Plattsburgh, of less area and frontage than that required for such use in the district in which the lot is located provided that all other provisions of this Ordinance are complied with; and, provided that such lot, at the time of the passage of the original ordinance (May 1969) was held under separate ownership or lessee-ship from the adjoining lots.

Section 3.4 Yards on Corner Lots

Any yard adjoining a public or private street shall be considered a front yard for the purposes of this Ordinance, and shall comply with all requirements for a front yard in the district in which located. The other yards on a corner lot shall be considered rear yards and shall meet the requirements for rear yards in the district in which it is located.

Section 3.5 Lots Abutting Lake Champlain

Where lots abut Lake Champlain, the yard abutting the water shall be considered a front yard. Principal structures and accessory structures shall be allowed in both the front and the rear yards but must conform to front yard setback requirements as set forth in Section 5.1.D.

Section 3.6 Front Yard Exceptions

Where front yards in any district have been established for more than fifty (50%) percent of the frontage in any block at a depth greater than the minimum required for the district, the depth of required front yards shall be increased to comply with such established depth. In no case shall

the depth of the required front yard be less than that specified for the district in which it is located.

Section 3.7 Open Porches, and Attached Carports and Garages

In determining the percentage of building coverage of a lot or the size of yards for the purpose of this Ordinance, porches or carports open at sides but roofed, and all attached and detached garages shall be considered as a part of the principal building.

Section 3.8 Projection in Yards

Every part of a required yard shall be open from its lowest part to the sky unobstructed, except for the ordinary projections of sill, belt cornices, pilasters, leaders, chimneys, solar panels, candelabra floors, eaves and ornamental features, provided that no such projection may extend more than three (3) feet into any required yard.

Open or enclosed fire escapes, fireproof outside stairways, walkways and balconies projecting into a required yard not more than four and one-half (4½) feet may be permitted by the Zoning Enforcement Officer where such projections are so placed as not to obstruct light and ventilation.

ARTICLE IV NON-CONFORMING USES, STRUCTURES AND LOTS

Section 4.1 Continuation of Non-Conforming Uses, Structures and Lots

Except as provided in Section 4.2 of this Article, any non-conforming use, structure or lot existing at the time that this Ordinance or any amendment hereto becomes effective, may be continued, subject to the provisions of Sections 4.3, 4.4, and 4.5 of this Article, although such use, structure or lot does not conform to the provisions of this Ordinance.

Section 4.2 Abandonment of Use

When a non-conforming use has been discontinued or abandoned for a period of not less than one (1) year, it shall not thereafter be re-established and the future use shall be in conformity with the provisions of this Ordinance.

Section 4.3 Changes in Non-Conforming Use

No non-conforming use shall be changed to other than a conforming use for the district in which it is situated.

Section 4.4 Maintenance of Non-Conforming Uses and Non-Conforming Structures

Non-conforming uses and non-conforming structures are hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public. Alterations of non-conforming uses and non-conforming structures are permitted provided said alternations do not increase the size of the non-conforming use or structure.

Section 4.5 Restoration

Nothing herein shall prevent the restoration within one (1) year, and the continued use of a non-conforming building or structure damaged by fire, flood, earthquake, Act of God, or act of the public enemy. In any case where a building or structure is damaged to an extent exceeding seventy (70) percent of its fair sales value immediately prior to damage, such building or structure shall not be restored as a non-conforming use.

Section 4.6 Non-Conforming Lots

- A. Any lot of record, lawfully existing and complying with the Town of Plattsburgh Zoning ordinance as were applicable on the day that such lot of record was legally created by recording the deed for such lot in the Clinton County Clerk's office, and that does not conform to the dimensional requirements of this chapter, shall be considered a legal nonconforming lot of record. Except as provided in Subsections C hereof, such lots can be

developed in accordance with the minimal dimension requirements that were existing and effective on the day that such lot was created.

- B. Development of any lawfully nonconforming lots of record which are located within Planning Board approved subdivisions shall be considered legal nonconforming lots of record and can be developed in accordance with the minimal dimension requirements that were existing and effective on the day that such lot was created, provided that the Town approved final subdivision plat was filed in the Clinton County Clerk's in accordance with law. The date that such lot was created shall be deemed to be the date that such approved subdivision plat was filed in the Clinton County Clerk's office.
- C. Development of any lawfully nonconforming lots of record existing outside of Planning Board approved subdivisions shall comply with the setback requirements of this chapter unless the Zoning Board of Appeals grants a variance.

ARTICLE V SUPPLEMENTARY REGULATIONS

Section 5.1 Accessory Uses

A. Accessory Uses in Residential Districts

Accessory uses permitted in Residential Districts shall be such only as do not alter the character of the premises on which they are located or impair the neighborhood and shall be located on the same lot with the use to which it is accessory. Permitted Accessory Uses shall include the following:

1. Private garages, tool/garden sheds, gazebos, docks, unattached decks and other similar structures
2. Pools
3. Farm stands on the same lot on which the products are grown, not to exceed 96 square feet in area.
4. Home occupations
5. A temporary building for commerce or industry in a Residential District where such building is necessary or incidental to the development of a residential area. Such building may not be continued for more than one (1) year.

B. Accessory Uses in Neighborhood Commercial Districts

Accessory uses permitted in Neighborhood Commercial Districts shall be those that do not alter the character of the premises on which they are located or impair the neighborhood and shall not include any use not on the same lot with the use to which it is accessory. Permitted accessory uses include any accessory use permitted in Residential Districts.

C. Accessory Uses in Other Districts

In any non-residential district, accessory uses shall be those that do not alter the character of the premises on which they are located, shall be clearly incidental to a permitted principal use, and shall be located on the same parcel of land except for parking facilities, which shall be governed by Section 5.4.

D. Accessory Buildings

Accessory buildings shall not occupy any non-buildable area per Schedule B other than a rear or side yard within any zoned district, with the exception of permitted Farm Stands. The side yard setback between the front of the principle building and the front lot line shall be

considered a buildable area. Accessory buildings in any Residential District or Residential Planned Development District shall not have a footprint larger than one hundred (100) percent of the total building area within the principal building and shall not occupy more than forty per cent (40%) of any required rear or side yard and shall not be less than ten (10) feet from any rear or side lot line proper. A private garage, however, may be built across a common lot line by mutual agreement between adjoining owners. Garages built into or attached to dwellings shall not be considered accessory buildings but part of the principal building.

Section 5.2 Fences and Walls

The area regulations of this Ordinance shall not apply to fences and walls less than six (6) feet high above the average natural grade, except as limited by:

1. Those fences or walls to be located on corner lots (see Section 5.3)
2. Location of fence or wall. If a fence or wall exceeds three (3) feet in height above the natural grade and exists along a public right-of-way, said fence or wall shall be set back from the front lot line five (5) feet.

The provisions of this Ordinance relative to area regulations shall not apply to attached terraces, steps, unroofed porches and decks less than two and a half feet (2 1/2) above the grade level of the structure and shall not occupy any non-buildable area per Schedule B other than a rear or side yard within any zoned district. The provisions of this Ordinance shall not apply to hedges, trees or other flora.

Section 5.3 Corner Visibility

In all areas of the Town, except corners in Commercial Districts having a traffic control device, no structures, trees, fence or shrubbery over three (3) feet in height shall be maintained on any corner lot within a triangular area formed by the lot lines along the streets to the points on such lines a distance of forty (40) feet from their intersection, and a line connecting such points.

Section 5.4 Parking Requirements

The use of every building or structure hereinafter erected, altered or extended shall determine the parking facilities or vehicle storage requirement as set forth below:

A. Parking Spaces

Each off-street parking space shall have the following minimum dimensions:

1. Parallel parking
 - ✓ Width = 9 feet
 - ✓ Length = 22 feet
 - ✓ Height = 7 feet

2. Perpendicular parking
 - ✓ Width = 9 feet
 - ✓ Length = 18 feet
 - ✓ Height = 7 feet
3. Angled parking. For parking spaces that are at various angles in relation to curbs or aisles, the lines demarcating such parking spaces shall be drawn to contain the same rectangular areas required by the above perpendicular standard.
4. Parking spaces for physically impaired persons shall comply with the Americans with Disabilities Act and the New York State Uniform Fire and Building Code.
5. The parking area aisle width for a lot with perpendicular parking shall be fifteen (15) feet for one-way traffic and twenty-four (24) feet for two-way traffic.
6. Parking shall be provided for each use as set forth in Table 1 below.
 1. Where the parking requirement is tied to the number of employees, the Planning Board shall consider the number of employees who may ultimately be present on a site.
 2. The Planning Board may vary the parking requirements, where, in its opinion, the purposes of this ordinance will be better served by doing so.

Table 1 Parking Schedule

<u>Use</u>	<u>Parking Requirement</u>
Accessory Uses	None
Adult Day Care Center	1 for each employee on the maximum working shift
Adult Uses	1 per 200 square feet plus 1 for every 4 seats plus 1 for each employee on the maximum working shift
Agricultural Uses	1 for each employee on the maximum working shift
Airport	As determined by the Planning Board
Airport Allied Uses	1 for each employee on the maximum working shift
Animal Hospital	1 per 250 square feet

<u>Use</u>	<u>Parking Requirement</u>
Asphalt Manufacturing and Storage	1 for each employee on the maximum working shift
Assisted Living Facility	1 per 500 square feet plus 1 for each employee on the maximum working shift
Automobile Body Work or Repair	2 plus 2 per 500 square feet of bay area plus 1 for each employee on the maximum working shift
Automobile Rental Facility	1 for every 2 automobiles rented plus 1 for each employee on the maximum working shift
Automobile Repair	2 plus 2 per 500 square feet of bay area plus 1 for each employee on the maximum working shift
Automobile Sales	1 per 500 square feet of floor area plus 1 per 500 square feet of bay area ¹
Bed & Breakfast Facility	2 plus 1 for each guest room
Brewery/Winery	1 for every 2 ½ seats plus 1 for each employee on the maximum working shift
Bulk Storage	1 for each employee on the maximum working shift
Business/Professional Office	1 per 250 square feet
Cemetery	1 per 5 acres
Child Day Care, In-Home	1 for each employee on the maximum working shift
Child Day care Center	1 per 500 square feet plus 1 for each 2 employees on the maximum working shift
Clinic	1 per 250 square feet of building area plus 1 for each employee on the maximum working shift
Commercial Development	1 per 250 square feet of building area
Commercial Greenhouse	1 per 400 square feet of floor area plus

¹ Vehicle Display Areas may not be counted for purposes of meeting parking requirements at automobile sales facilities.

<u>Use</u>	<u>Parking Requirement</u>
	1 for every 2 acres of nursery space
Commercial Recreation Facility	1 per 250 square feet of building area
Community Center	1 per 4 seats plus 1 for each employee on the maximum working shift
Concrete Manufacturing and Mixing Plant	1 for each employee on the maximum working shift
Condominium	2 per dwelling unit
Conference Center	1 for every 4 seats plus 1 for each employee on the maximum working shift
Contractors Storage Yard	1 for each employee on the maximum working shift
Crematory	2 plus 1 for each employee on the maximum working shift
Drive-Thru Use	1 per 250 square feet plus 1 for each employee on the maximum working shift
Dwellings Above First Floor of Permitted Commercial/Retail or Business/Professional Use(s)	1.5 per dwelling unit
Educational Institution	1 for every 4 classroom seats plus 1 for every gymnasium and auditorium seat plus 1 for each employee on the maximum working shift
Equipment Sales	1 per 500 square feet plus 1 for each employee on the maximum working shift
Farm	1 for each employee on the maximum working shift
Farm Animal Transfer Station	2 plus 1 for every employee on the maximum working shift
Farm Worker Housing	2 per dwelling unit
Financial Institutions	1 per 250 square feet
Ferry	1 per maximum ferry boat automobile capacity plus 1 per employee

<u>Use</u>	<u>Parking Requirement</u>
Fuel Storage Facility	1 for each employee on the maximum working shift
Funeral Home	1 for every 2 seats under maximum occupancy
Game Preserves	As determined by the Planning Board
Gasoline Station	2 per fuel dispensing device
Golf Course	3 per hole
Health and Fitness Center	1 per 200 square feet
Hospital	1 space per 3 patient beds
Hotel	1 for each guest room plus 1 for each 2 employees on the maximum working shift
Industrial Plant	1 for each employee on the maximum working shift
Industrial/Machine Shop	1 for each employee on the maximum working shift
Kennel	1 per 500 square feet
Manufacturing	1 for each employee on the maximum working shift
Manufactured Home	1.5 per dwelling unit
Manufactured Home Park	1.5 per dwelling unit plus 1 per employee on the maximum working shift
Manufactured Home Sales	1 per 2,000 square feet of unit floor display area plus 1 per each employee on the maximum working shift plus 1 for each fleet vehicle
Mining	1 for each employee on the maximum working shift
Multi-Family Dwelling Unit	2 per dwelling unit
Museum	1 per each 250 square feet open to the public plus 1 for each employee on the maximum working shift

<u>Use</u>	<u>Parking Requirement</u>
Neighborhood Convenience Store	1 per 150 square feet plus 2 spaces per fuel dispensing station, if present
Night Club	1 per 2 ½ seats plus 1 for each employee on the maximum working shift
Performing Arts Center	1 per 4 seats plus 1 per employee on the maximum working shift
Place of Worship	1 for every 4 seats
Public Building/Use	1 per 250 square feet plus 1 per 4 seats in public assembly areas
Public or Private Garage	N/A
Public Recreational Facility	1 for each 2 employees on the maximum working shift plus 1 per 300 square feet of enclosed space
Public, Private or Parochial School	3 per classroom for grades K through 9 and 4 per classroom for grades 10 through 12
Public Trail	2 per trailhead
Public Utility	1 for each employee on the maximum working shift
Rail Facility	1 for each employee on the maximum working shift
Recycling Facility	2 plus 1 for each employee on the maximum working shift
Research and Development Facility	1 for each employee on the maximum working shift
Restaurant	1 for every 2 ½ seats plus 1 for each employee on the maximum working shift
Retail Sales	1 per 250 square feet
Riding Academy	1 for every 2 horse stalls
Signs	N/A
Single Family Dwelling	2 per dwelling unit

<u>Use</u>	<u>Parking Requirement</u>
Technology Manufacturing	1 for each employee on the maximum working shift
Storage Yards	1 for each 2 employees on the maximum working shift
Technology Manufacturing	1 for each employee on the maximum working shift
Theater	1 for every 4 seats plus 1 for each employee on the maximum working shift
Townhouse	2 per dwelling unit
Two-Family Dwelling Unit	1.5 per dwelling unit
Warehouse/Distribution Facility	1 for each employee on the maximum working shift
Watchman's Dwelling	1 per dwelling unit
Wholesale Business	1 per 250 square feet

B. Parking Lots

1. In general, parking shall be provided on the same lot as the principal use. However, parking may be provided on a separate tax parcel or parcels if the separate tax parcel(s) is/are within 300 feet of the principal use, the parcels are under the same ownership with covenants which tie the parcels together, and there is a safe way to provide circulation between the parcels.
2. All parking in the PDD, C and SC districts shall be lighted in accordance with the standards in Section 5.16.
3. Any use required to have 25 or more parking spaces shall supply one or more bicycle racks suitable for at least one bicycle for every 25 spaces.
4. All parking lots shall have spaces for safe pedestrian walkways. See also Section 5.15, Design Guidelines.
5. For lots over 25 spaces, landscaping shall be provided as required in Section 5.14.A.2.

C. Shopping Center Parking

The purpose of this sub-section is to have reasonable traffic regulations for traffic control and parking within major shopping centers. Nothing in this section shall prohibit Shopping Center Management from establishing and enforcing rules that further the interest of public safety and welfare and restricts such activities as the use of skateboards, roller blades, all-terrain vehicles, snowmobiles and dirt bikes from public property.

1. Application

This section shall apply to any shopping center that maintains a public parking area that exceeds one (1) acre in size and services more than one store or business.

2. Traffic Control Plan

Shopping Center authorities shall provide and maintain a current copy of the traffic control plan that includes the location of all traffic control devices, as well as restricted parking areas with the Plattsburgh Planning Department. Any amendment of the traffic control plan shall be submitted to the Planning Department for filing within five (5) days of executing such amendment.

3. Speed Limit and Other Moving Restrictions

a. The maximum speed limit on traffic lanes within shopping center areas shall be twenty-five miles per hour (25 mph) unless otherwise posted with speed limit signs.

b. Except when directed to proceed by a police officer or shopping center security, every driver of a vehicle approaching a Stop Sign shall stop at a clearly marked stop line; however, if there is not a clearly marked stop line provided, the driver shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, the driver shall stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. Before entering the intersection and after having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection and after having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway. The driver shall also yield the right-of-way to any vehicle which is approaching so closely on said highway or traffic lane as to constitute an immediate hazard during the time which such driver is moving across or within the intersection.

4. Vehicle Parking

a. Parking of Vehicles

- (1) Vehicles shall be parked within the parking areas provided and in accordance with posted signs. Within those parking areas, vehicles will be parked between the lines indicating individual parking spaces.

b. Parking is Prohibited:

- (1) Within thirty (30) feet of the sidewalks which are adjacent to the shopping center buildings. These areas are designated and posted as Fire lanes and parking is prohibited in any Fire Lane.
- (2) Within twenty (20) feet of any building wall, except for rear building walls.
- (3) Within the areas designated as service or loading areas which are posted "Loading Zone" or "Service Area," these restrictions shall not apply to vehicles who have their four (4) way flashers on, and are actively making deliveries of merchandise to stores located in the shopping center.
- (4) Within the parking spaces so designated and marked as "Handicapped parking," unless the parked vehicle displays a legal "Handicapped Parking" permit, temporary or permanent or a legal "Handicapped License Plate."
- (5) Within traffic lanes, crosswalks, or intersection boundaries delineated by markings, signs or striping.
- (6) Within thirty (30) feet of any fire hydrant or fire department connections with the installed sprinkler systems, unless parked in a designated parking space.
- (7) Within any marked area that is signed with restricted parking such as "Mall vehicles" or "Shopping Center Vehicles," "Police Cars Only," "Mall Security Vehicles Only," or "Shopping Center Security Vehicles Only."
- (8) Within any area designated and marked by shopping center management as No Overnight parking Area."

D. Shared Parking

The Planning Board may, in its sole discretion, approve the use of a shared parking facility and a reduction in the parking requirements of up to thirty (30) percent by two or more principal buildings or uses, either on the same, adjacent or nearby parcels, where it is demonstrated that the reduction in spaces and shared use of the parking facility will substantially meet the intent of the requirements by reasons of variation in the time of use by patrons or employees among the establishments. Evidence for such reduction shall use the methodology in *Shared Parking*, published by the Urban Land Institute, or a methodology acceptable to the Planning Board. Such reduction shall apply only to individual uses that require ten (10) or more spaces.

There shall further be a perpetual covenant suitable for recording on the separate parcel or lot guaranteeing the maintenance of the required off-street parking facilities during the existence of said principal use. Said covenant shall:

1. Be executed by the owner of said lot or parcel of land and the parties having beneficial use thereof;
2. Be enforceable by either of the parties having beneficial use thereof; and
3. Be enforceable against the owner, the parties having beneficial use, and their heirs, successors and assigns.

E. Required Off-Street Loading and Unloading Space

1. On the same premises as every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, adequate off-street or off-alley space for loading and unloading of vehicles shall be provided and maintained. Such space shall have access to a public alley or, if there is no alley, to a public street. Off-street loading and unloading space shall be in addition to off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner that obstructs or interferes with the free use of any street, alley, on-site parking, or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity. Off-street loading and unloading space shall be provided as follows:
 - a. One space for the first six thousand (6,000) square feet of floor area.
 - b. One additional space for the next nine thousand (9,000) square feet of floor area.
 - c. One additional space for the next fifteen thousand (15,000) square feet of floor area.
 - d. One space for each additional thirty thousand (30,000) square feet, or any portion thereof of floor area.
2. Off-street loading and unloading spaces shall be 12' x 35' for box or straight body trucks and or 12' x 68' for tractor trailer type trucks.
3. Loading berths may be provided in spaces to serve two (2) or more adjacent establishments.
4. The Planning Board may require additional or permit fewer off-street loading spaces for any use if it finds that the required number of spaces is not sufficient or excessive.

F. Commercial Vehicle Parking

Commercial vehicles may not be parked for more than six (6) hours within any consecutive 24 hour period on any public street in a MH, R-1, R-2, R-3, R-4 or L district. No more than one commercial vehicle may be parked on a residential property in the above districts.

G. Diesel Vehicle Idling

No person shall allow a diesel vehicle to run or idle its engine for more than 15 minutes in a R-1, R-2, R-3, R-4, MH or L district while the diesel vehicle is unattended. "Unattended" means where the properly licensed driver of the diesel vehicle is not in the diesel vehicle's driver's seat and awake. This prohibition shall be effective in all residential zones of the Town. The driver and the registered owner of the diesel vehicle shall each be responsible for complying with this article.

H. Recreational Vehicle Parking

In a residential district, a recreational vehicle may be parked on any lot on which a primary structure is present. No more than one recreational vehicle may be parked on a lot on which a principal structure is present. Occupancy of a recreational vehicle in a residential district is limited to two weeks in a calendar year.

Section 5.5 Home Occupations

All home occupations shall conform to the following conditions:

- A. The occupation or profession shall be carried on wholly within the principal building, within an accessory building, or within another structure accessory thereto.
- B. Not more than one person outside the family residing in the dwelling shall be employed on-site in the home occupation.
- C. There shall be no exterior display or exterior sign except one unlighted identification sign, not more than six (6) square feet in area.
- D. No exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- E. No offensive noise, vibration, smoke, dust, odors, heat, light, glare, toxic or hazardous wastes shall be produced.
- F. A home occupation may have no more than five (5) combined commercial vehicle pick-ups or deliveries in the course of a day.
- G. In particular, a home occupation includes, but is not limited to the following: internet sales, dressmaking, tailoring, home cooking, teaching (musical instruction limited to a single pupil at a time), and the skilled practice by an accountant, architect, artist, barber/beautician (one

practitioner and one client at a time), data processor, computer programmer, computer repair, dentist, doctor, engineer, insurance agent, lawyer, musician, realtor, word processor, pet groomer, yard care, handyman services, in home child day care center or member of any other profession within a dwelling occupied by the same.

- H. A home occupation shall not include the following: barber shops, or beauty parlors (more than one practitioner and/or more than one client at a time), commercial stables and kennels, flea markets, garage sales, restaurants, musical instruction to groups, dancing instruction to groups, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

Section 5.6 Location of Certain Activities

The following uses or activities shall not be permitted within two hundred (200) feet of any Residential District as measured from the Residential District line.

- A. Land, building or complex of structures used to paint or repair automobiles, motor vehicles, machinery, equipment or parts thereof, or other work causing loud or unusual noise, fumes and/or odors.
- B. Land, building or complex of structures associated with an animal hospital, kennel, or place for the boarding of animals.

Section 5.7 Access Management

A. General Requirements

1. The site layout, location and design of driveways, parking, and other access management requirements should be based on full permissible development of a property.
2. Driveways should be limited to one per property. More than one driveway may be permitted if:
 - a. The additional driveway(s) does not degrade traffic operations and safety; and
 - b. The additional driveway(s) will improve the safe and efficient movement of traffic between the property and the road.
3. Driveways may be required to be located so as to provide shared driveways or cross-access driveways with an abutting property or properties.
 - a. Shared driveways and/or cross-access driveways shall be a minimum of 20 feet in width in order to accommodate two-way travel for motor vehicles. The Planning Board may require wider driveways if needed to serve a major generator of traffic and/or large vehicles.

- b. Shared driveways, cross-access driveways, interconnected parking and roads constructed to provide access to properties internal to a subdivision or a development plan shall be recorded as an easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities shall be approved by the Planning Board and recorded with the deed.
4. No driveway or means of access for vehicles, other than a public street, shall be maintained or used in any Residential District for the servicing of a commercial or industrial use located in a Commercial or Industrial District.

B. Other Guidance

The NYSDOT Policy and Standards for Entrances to State Highways as a guide in establishing other access criteria for commercial and industrial development shall be used.

Section 5.8 More Than One Building on a Lot

Unless otherwise specified, there shall be only one (1) principal building per lot. When there is proposed to be more than one principal building on a lot in any district, the space between such buildings shall not be less than the sum of the required yards, front, rear and side, as applicable. The minimum lot area requirements shall apply to all buildings or complex of structures.

Section 5.9 Mining

In all but the Industrial District, the removal of soil, loam, sand, gravel or quarried stone for sale, except when incidental to, or connected with the construction of a building on the same premises, shall be permitted only on receipt of special use permit.

In any district, the following provisions shall apply:

- A. No excavation, blasting or stock piling of materials shall be located within two hundred (200) feet of any public road or other property line.
- B. No power-activated sorting machinery or equipment shall be located within six hundred (600) feet of any public road or other property line and all such machinery shall be equipped with satisfactory dust-elimination devices.
- C. All excavation slopes in excess of one (1) to one (1) shall be fenced. Said fence shall be a minimum of six (6) feet high and be galvanized chain link, solid wood, or other industrial grade fencing material acceptable to the Planning Board.
- D. Expansion of an existing non-conforming quarrying operation beyond the existing designated mining area for the parent parcel shall not be permitted.

Section 5.10 Agricultural Uses

- A. The keeping of any animal or animals within an occupied residence is not regulated by this ordinance. The following regulations apply only to animals that are kept outside of an occupied residence.
- B. Within the A-1, A-2, AP, C, NC, SC, R-1, R-3, I, IP, L and within any PDD district unless otherwise allowed by the terms of that district, the keeping of large and small farm animals is prohibited, except that this prohibition does not apply to the keeping of five or fewer fur bearing animals.
- C. Within the R-2, R-4 and MH districts, any small farm animal may be kept for private or commercial use, provided that:
 - 1. The property is a minimum of three (3) acres, except for chickens or other fowl for which the property may be a minimum of two (2) acres.
 - 2. The animals must be housed at least 100 feet from any property line.
 - 3. Manure must be stored at least 100 feet from any property line.
- D. Within the R-2, R-4 and MH districts, large farm animals may be kept for private or commercial use, provided that:
 - 1. There is a minimum of three (3) acres for the first animal and two (2) acres for each additional animal.
 - 2. The animals must be housed at least 100 feet from any property line.
 - 3. Manure must be stored at least 100 feet from any property line.
- E. Within the R-2, R-4 and MH districts, bees may be kept for private or commercial use, provided that:
 - 1. 10,000 square feet is provided for the first hive and 5,000 square feet is provided for each additional hive.
 - 2. Hives must be kept at least ten feet from any property line or dwelling and at least 30 feet from any public site or roadway.
 - 3. A flyway barrier consisting of a solid fence, wall or dense hedge at least six (6) feet tall must span the property line or lines where the hive is located for at least ten feet in either direction, unless the hive is placed at least six feet off the ground or is more than 10 feet from the property line.
 - 4. A source of water must be provided within 100 feet of the hive.

- F. Farm worker housing shall be permitted on the same lot as an agricultural use provided all setback requirements are met. Farm worker housing which is vacated for more than a year must be removed from the property.
- G. Gardens for home use are allowed in any district and are not regulated by this ordinance.

Section 5.11 Greenhouses

No commercial greenhouse or greenhouse greater than five hundred (500) square feet shall be less than one hundred (100) feet from any lot line.

Section 5.12 Fuel Storage Tanks

Notwithstanding anything to the contrary stated in this ordinance, an application for a permit to install a Liquefied Petroleum Gas (LPG) tank, with the capacity of 2,000 gallons of LPG, or less, or an application to install an underground, or above grounds tank with a capacity of 10,000 gallons of gasoline/kerosene/oil/fuel oil or less shall be processed administratively by the Zoning Enforcement Officer. Tanks with a storage capacity of more than 10,000 gallons are regulated as Fuel Storage Facilities. All installations of tanks, above and below ground will be in accordance with the applicable NFPA Standards.

Section 5.13 Uses Permitted in the A1 Airport District

With the exception of airports, all uses permitted in the A1 District shall comply with the following:

- A. No building, or complex of structures shall be permitted within three hundred (300) feet of any residential zoning district as measured from the Residential District line.
- B. All lighting or illumination used in connection with parking, signs or other elements of the use of land or structures shall be located and used in such a manner that will not be misleading or dangerous to aircraft operating from any airfield with the A1 District. Fencing or screening shall be provided at all locations necessary to obstruct the lights of vehicles utilizing such use and effects therefrom.
- C. No use shall emit smoke, which is as dark or darker in shade than No. 2 on the Ringleman Chart as published and revised by the United States Bureau of Mines.
- D. No operations from any use shall produce heat and glare perceptible without instruments from any property line of the lot or tract on which the operation is located.
- E. All permitted uses shall conform to the most current Federal Aviation Agency regulations as to flight hazards, structure height, clearways, and all other pertinent restrictions.

Section 5.14 Landscaping and Buffering

A. Landscaping

1. Applicability

- a. This section shall apply to all development requiring site plan review in the Shopping Center Commercial and Service Center Districts. A site plan review affecting only a portion of a site triggers the landscaping requirements of this section. The Planning Board may waive some or all of the requirements of this section, at its discretion. Such waivers may include the application of these requirements to all or a part of a site, as well as a waiver of the requirements themselves.
- b. A landscape plan must be submitted as part of the site plan review process. A tree schedule must also accompany the preliminary plan submitted for site plan review. Evergreen landscape materials must be included to achieve at least a 1:3 ratio between evergreen and deciduous plants, except that the Planning Board may, at its discretion, require a greater ratio of evergreen to deciduous plants where it determines that such a greater ratio would be desirable.
- c. Where the location of existing overhead or underground utility lines conflict with the required landscaping strip and tree planting, the Planning Board may approve an alternative plan to meet the intent of the ordinance.
- d. The Planning Board shall have the ability to require landscaping of unutilized areas of a site, at its discretion.

2. Design Requirements

- a. A landscaped strip shall be provided adjacent to all public and private streets. The landscaped strip shall be a minimum of ten (10) feet wide, exclusive of street right-of-way. Within the landscaped strip, one (1) deciduous shade tree (2" caliper minimum) shall be provided per every five hundred (500) square feet, or any portion thereof, of landscaped strip.

Where parking lots and driveways abut the landscaped strip along street right-of-way, evergreen shrubs selected from the list provided in Section 5.14.A.3. The screening must be a minimum of three (3) feet high and extend along at least 75% of the entire street frontage of the parking lot, exclusive of driveways and visibility, as per Section 5.3 of this ordinance. A landscaped berm may be provided in lieu of required shrubs. The berm must be eighteen (18) to forty (40) inches above the average grade of the street and parking lot curbs with a slope not to

exceed 3:1. If a parking lot is located fifty (50) feet or more from the street right-of-way line, no screening shrubs or berm will be required.

- b. Street level landscaping shall not interfere with visibility.
 - c. Interior parking areas with more than 25 parking spaces shall be landscaped in addition to the required landscaped strip. Trees must be provided in each parking lot at a minimum average density of one (1) deciduous shade tree (2" caliper) for each fifteen (15) parking spaces, or any fraction thereof. At least 10% of the interior of the parking lot shall be landscaped.
 - d. A landscaped strip shall be provided around the perimeter of the site exclusive of driveways. The landscaped strip shall be a minimum of five (5) feet wide for sites 10,000 square feet or greater and three (3) feet wide for sites less than 10,000 square feet, except for any area abutting a public street, in which case the requirements of Section D (2) a . above shall apply. Within the perimeter landscaped strip, one (1) deciduous shade tree (2" caliper minimum) shall be provided per every two hundred fifty (250) square feet, or any portion thereof, of landscaped strip.
 - e. Parking lot landscaping shall be met for all customer and employee parking. Parking lot landscaping requirements shall apply to storage and standing parking spaces incidental to uses such as sales and rental of motor vehicles, mobile homes, boats, trailers, or other similar uses if such storage is visible from any public rights-of-way.
 - f. The total parking area to be used for the calculation of required interior lot landscaping shall be based on the entire area of the parking lot, inclusive of curbs, islands, driveways and aisles, except that any interior driveway or aisle with no parking on either side, may be excluded. Landscaped areas located outside the parking lot may not be used to meet the interior landscape requirement.
 - g. The required landscaping for parking lots shall be more or less evenly distributed throughout the parking lot, although adjustments may be approved by the Planning Board reviewing the landscape plan, where shape or size of the parking lot, the location of existing trees, or other natural constraints reasonable prevent such distribution.
3. Recommended Species

Plant species shall be selected from the reference titled, "Landscape Plants for Vermont" by Norman E. Pellett and Mark C. Starrett.

4. Maintenance

Required landscaping must be permanently maintained in a healthy growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other permanent maintenance of all plantings as needed.

B. Buffering

1. Purpose. The purpose of buffer zones is to separate land uses and offer visual screening between uses that may not be compatible. The level of general compatibility dictates the level of screening. Three different types of buffers are specified. The buffer types are designated as Type A, Type B and Type C buffers. The following table illustrates the types of buffers required between adjacent uses. The presence of a roadway or railroad track between uses negates the need for a buffer requirement. Buffers are not required between any pre-existing use in a commercial or industrial district at the time of adoption of this section, regardless of whether the use is conforming or not.

Buffer Requirements Between Adjacent Uses

Land Uses	Single Family	Multi-Family	Commercial	Industrial
Single family	None	A	B	C
Multi-Family	A	None	B	C
Commercial	B	B	None	A
Industrial	C	C	A	None

2. Description of Buffer Types. Each buffer type contains certain minimum requirements, which are outlined in the table below. Trees and shrubs are to be from the recommended lists in this section. An opaque fence may be substituted for trees or shrubs of the minimum specified height, at the discretion of the Planning Board.

Buffer Types

Buffer Yard Type	Minimum Landscaped Yard	Number of Trees Required per 100 Linear Feet of Buffer	Minimum Height of Required Trees
A	10 feet	1	NA
B	20 feet	3	6 feet
C	75 feet	5	5 feet

3. Parking or storage of vehicles of any kind or objects associated with the use of the property is not permitted within the buffer yards.
4. Buffer yards are in addition to landscape requirements outlined in this section and may not be used as a substitution for any part of the required landscaping.

Section 5.15 Design Guidelines

- A. Purpose and Intent. The intent of these guidelines is to encourage a mix of uses within the designated districts with attractive and integrated design to enhance the value of property, enhance community character, conserve energy and protect the investment of landowners, neighbors and developers. By adhering to these guidelines the Town of Plattsburgh hopes to achieve greater economic vitality, dynamic social interaction and a distinctive character.
- B. Applicability. These guidelines all apply to all development of 10,000 square feet or more of gross building area requiring site plan review in the Industrial, Shopping Center Commercial and Service Center Districts. A site plan review affecting only a portion of a site triggers all of the requirements of this section. The Planning Board may waive some or all of the guidelines in this section, at its discretion.
- C. Shopping Center Commercial and Service Center District Guidelines
 1. Site Guidelines
 - a. Buildings should be sited to take advantage of solar gain wherever possible.
 - b. In order to facilitate fewer curb cuts, a rear drive should be provided to access loading docks and employee parking spaces behind buildings.
 - c. Where sidewalks are not already present, they should be placed between the building and the parking lot as well as between the parking lot and the adjoining street(s). Sidewalks should be a minimum of five feet wide and ADA compliant.
 - d. Sidewalks or striped pedestrian walkways should be provided between any parking lot with 25 or more cars and the building(s) which the parking lot serves.
 - e. Buildings should offer attractive and inviting pedestrian-scale features, spaces and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pick-up points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community fabric.

- f. Retail establishments are encouraged to contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, art, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that adequately enhances such community and public spaces. Any such areas should have direct access to the public sidewalk network and such features should not be constructed of materials that are inferior to the principal materials of the building and landscape.
- g. If the area is served by a bus service, areas should be designated to accommodate existing or possible (future) bus service.

2. Architectural Guidelines

- a. Variations in rooflines should be used to add interest to and reduce the massive scale of large buildings. Roof features should complement the character of adjoining neighborhoods.
- b. Rooflines should be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers should be used to conceal flat roofs and rooftop equipment from public view. Alternating lengths and designs may be acceptable and can be addressed during the preliminary development plan.
- c. Buildings should have architectural features and patterns that provide visual interest, at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.
- d. Building facades should include a repeating pattern that should include no less than three of the elements listed below. At least one of these elements should repeat horizontally. All elements should repeat at intervals of no more than 30 feet, either horizontally or vertically.
 - (1) Color change.
 - (2) Texture change.
 - (3) Material module change.
 - (4) Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.

- e. Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.
- f. Absent good cause, predominant exterior building materials as well as accents should not include the following:
 - (1) Smooth-faced concrete block.
 - (2) Tilt-up concrete panels.
 - (3) Prefabricated steel panels.
- g. Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The standards identify desirable entryway design features.
- h. Each principal building on a site should have clearly defined, highly visible customer entrances featuring no less than three of the following:
 - (1) Canopies or porticos.
 - (2) Overhangs.
 - (3) Recesses/Projections.
 - (4) Arcades.
 - (5) Raised corniced parapets over the door.
 - (6) Peaked roof forms.
 - (7) Arches.
 - (8) Outdoor patios.
 - (9) Display windows.
 - (10) Architectural details such as tile work and moldings which are integrated into the building structure and design.
 - (11) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- i. Retail buildings should feature multiple entrances. Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access from public sidewalks, and provide convenience where certain entrances offer access to individual stores, or identified departments in a store. Multiple entrances also

mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

- j. The number of entrances for the principal building should be addressed at the preliminary development plan stage. Where additional stores will be located in the principal building, each such store should have at least one exterior customer entrance, which should conform to the above requirements.
 - k. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions should be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
3. Energy Efficiency Guidelines

High efficiency building systems are encouraged to maximize energy efficiency and minimize energy use. Examples of these systems include:

- a. Photo-Voltaic (PV) systems
- b. Hydronic heating systems
- c. Geothermal heating and cooling systems
- d. Heat pump systems
- e. Ceiling fans
- f. High efficiency heating and air conditioning systems
- g. Light colored or high-albedo roof sheathings
- h. Southern solar building orientations
- i. High performance windows should be selected and the use of glazing with low solar heat gain is encouraged
- j. Insulation should be used to maximize energy efficiency

D. Industrial District Guidelines

- 1. Applicability. These guidelines are applicable to buildings 10,000 square feet or larger in size.
- 2. Site Guidelines

Buildings should be oriented to present their main façade and entrance toward public or interior private street. Buildings should be oriented parallel or perpendicular to public sidewalks. In addition, where practicable and consistent with the foregoing, buildings should be sited to take advantage of solar gain wherever possible.

3. Architectural Guidelines

a. Roofs

- (1) Prohibited: gambrel or mansard roofs.
- (2) Allowed: Flat, hip roofs; other roof types at the discretion of the Planning Board.

b. Pitched roofs:

- (1) Should complement the overall style of the building.
- (2) Materials should not be reflective
- (3) Colors should complement the overall character of the building.
- (4) Should incorporate measures to prevent snow and ice from falling onto the sidewalk.

c. Façade treatment and fenestration. The architectural treatment of the building façade should be continued in its major features, around all visible sides from the primary street.

d. Specialty equipment.

- (1) Rooftop mechanical equipment, satellite dishes, antennas, and all other rooftop equipment should be screened so as to not be visible from public view from adjoining roadways. Screening should consist of architecturally compatible materials, parapets, sloped roof form or walls that are at least as high as the equipment being screened.
- (2) Ground-level equipment, such as dumpsters and loading docks, should be screened so as to not be visible from public view. Screening should consist of landscaping, natural material walls, fencing, or other design treatments compatible with the finish of the principal building.

4. Energy Efficiency Guidelines

High efficiency building systems are encouraged to maximize energy efficiency and minimize energy use. Examples of these systems include:

- a. Photo-Voltaic (PV) systems
- b. Hydronic heating systems
- c. Geothermal heating and cooling systems
- d. Heat pump systems
- e. Ceiling fans
- f. High efficiency heating and air conditioning systems
- g. Light colored or high-albedo roof sheathings
- h. Southern solar building orientations
- i. High performance windows should be selected and the use of glazing with low solar heat gain is encouraged
- j. Insulation should be used to maximize energy efficiency

Section 5.16 Lighting Requirements

- A. All lighting fixtures shall be architecturally compatible with the primary building.
- B. Fixtures shall be shielded and have cut-offs to direct light to the ground. This must be accomplished so that light dispersion or glare does not shine above a ninety-degree horizontal plane from the base of the fixture. The bare light bulb, lamp or light source shall be completely shielded from direct view of an observer at the property line.
- C. Cut-off fixtures must be installed in a horizontal position as designed.
- D. Flat lens cut-offs are required.
- E. Fixtures shall generally be of dark colors. Pole-mounted fixtures shall not exceed a fourteen (14) foot height limit for sites with less than 5,000 square feet of development; 25 feet for sites with 5,000 – 60,000 square feet of development; and 35 feet for sites with more than 60,000 square feet of development. All heights shall be measured from ground level.
- F. Lexan lenses or similar low-glare materials are required.
- G. A uniformity ratio of 4:1 shall be provided.
- H. The maximum illumination at the property line shall be 0.5 foot candle (fc) measured at ground level, except that the level shall be 0.2 fc when adjoining residential and districts and all roadways.
- I. The maximum illumination level under any canopy shall be 20 fc.

- J. The maximum illumination level measured on a vertical plane within 10 feet of any wall shall not exceed 5 fc.
- K. Lighting shall not interfere with or impair pedestrian or motorist vision.
- L. All externally lit signs shall be illuminated only with steady, stationary, fully shielded light sources aimed directly onto the sign. Light bulbs or lighting tubes used for illuminating a sign shall not be visible from any location.
- M. The intensity of sign lighting shall not exceed that necessary to illuminate and make legible a sign from the closest adjacent public right-of-way.
- N. The fixtures used to illuminate signs shall not be directed toward any adjacent properties.
- O. All light sources shall be fully shielded or hooded.

ARTICLE VI SIGNS

Section 6.1 Purpose

The purpose of this Article is to promote and protect the general welfare, public health, safety and property values of the community, create a more attractive business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of the designated areas, and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign and advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment.

The regulations contained in this Article shall apply to all signs in all use districts.

Section 6.2 General Regulations

All signs shall be designed and built in accordance with local codes and ordinances.

A. Maintenance

All signs and other advertising devices or structures, together with all their supports, braces, guys and anchors, shall be of substantial and sturdy construction, shall be kept in good repair, and shall be painted or cleaned as often as necessary to maintain clean, neat, safe and orderly appearances.

All signs must be firmly affixed to the building or structure and shall not be suspended solely by means of wires. Any supporting devices must be equipped with rustproof hardware.

B. Illumination

Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights, nor shall any flashing signs as herein defined be permitted. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed skyward, upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

C. Off-Premises and/or Projecting Signs

It shall be unlawful for any person to erect, alter, or relocate any off-premises and/or projecting signs as defined in this Ordinance.

D. Wall Signs

No signs or graphic description of any nature shall be permitted to be painted on exterior walls.

E. Temporary Signs

1. All temporary signs shall conform to the regulations and requirements relating to the zoning district in which the sign shall be located. Temporary signs may not exceed twenty (20) square feet in size.
2. Temporary signs may be displayed and/or erected for a period of time not to exceed an aggregate amount of sixty (60) days from January 1 to December 31. The sixty (60) day limitation applies to the display of all temporary signs related to a business rather than to each individual sign. Only one temporary sign per business is allowed at any time.
3. Signs promoting or advertising an event sponsored by a not-for-profit organization are permitted following submission of a written request by said organization to the Zoning Enforcement Officer stating the date the sign will be displayed/erected, the text of the sign, and the date the sign will be removed. Only advertising or sponsorship for the event shall be permitted on the sign.

F. Motion and Animated Signs: No signs shall be erected which revolve or which display any motion or animation.

G. Billboards: Billboards and other outdoor advertising structures shall be prohibited unless exempt from jurisdiction of this Ordinance

H. Posting Prohibitions: No signs, printed bills or other advertising shall be affixed to any tree, utility pole, power pole, or placed in any public space or public right of way that obscures a driver's vision.

I. Changeable Copy Signs: Changeable copy signs are not allowed within any district of the Town. Exceptions are: Places of worship, schools, governmental agencies, police stations and emergency response stations.

Section 6.3 Signs in Residential Districts

No signs for commercial advertising purposes of any kind may be erected in any residential zone except as follows:

- A. Permitted non-residential uses and legal non-conforming uses, other than as provided in Paragraph (C) of this section, existing in a residential zone may display one sign strictly pertaining to the authorized use of the property provided the sign does not exceed six (6) square feet. Such signs shall not project from the front or face of any building more than (1) foot. Such signs must be affixed to the building, except as hereinafter provided.

- B. Multi-family dwellings with more than two (2) units, bed & breakfasts and home occupations may display one (1) unlit or one (1) lit sign identifying the premises, which need not be affixed to the building, provided the sign does not exceed six (6) square feet. No sign shall be situated or located closer than twenty (20) feet to an adjoining lot line, right-of-way or street line.
- C. No free-standing sign shall exceed eight (8) feet in height above ground level. No wall mounted sign shall extend higher than the first story of the building on which it is located.

Section 6.4 Signs in Commercial or Industrial Districts

A. Permitted Signs:

In the C, SC, NC, AD1, AD2, AD-C, AD-IND, AD-MU, A1, A2, I and IP districts, and in Planned Development Districts, no sign shall be erected or maintained, except as follows:

1. On commercial premises with four or fewer businesses, one (1) sign, which may be either a free standing sign or a monument sign, equal or less than 50 square feet in size.
2. On commercial premises with more than four (4) businesses, one (1) sign which may be either a free standing sign or a monument sign, equal or less than 100 square feet in size.
3. One (1) sign attached or applied onto the face of a business unit, which sign area shall not exceed one-half square foot for each lineal foot of business unit building frontage, not to exceed 50 square feet. An attached sign on a building of which the building front is located more than fifty (50) feet but less than one hundred (100) feet from the public right-of-way may be increased in area by one-third more than that allowed. In circumstances in which said sign is located more than one hundred (100) feet from the public right-of-way, a sign area may be increased by two-thirds (2/3) more than allowed.
4. One sandwich/sidewalk sign of eight (8) square feet or less per side, provided that such signage is not placed so as to impede restrict or otherwise interfere with pedestrian or vehicular traffic. Such signs shall not be permanently affixed to any structure, shall be displayed only during hours of operation, and shall be located within ten (10) feet of the building in which the business they are advertising is carried out.
5. Informational signs of not more than three (3) square feet designed to direct and inform the public as to the location of exits, entrances, service areas, loading and unloading areas, or similar wording of an informational nature.

B. Additional Attached Signs for Multiple Story Buildings

An additional attached building sign is permitted on each of the building's frontages on which an attached building sign is permitted, as follows.

1. For each additional floor, an additional fifty (50) square feet of sign area per floor is permitted. An attached sign on a building of which the building front is located more than fifty (50) feet but less than one hundred (100) feet from the public right-of-way may be increased in area by one-third more than that allowed. In circumstances in which said sign is located more than one hundred (100) feet from the public right-of-way, a sign area may be increased by two-thirds (2/3) more than allowed.
2. The sign must be placed on the story for which the additional sign area has been granted.

C. Free Standing Sign Regulations

1. The maximum height of a free standing sign shall be twenty (20) feet. The height of the sign shall be measured from the ground elevation to the top of the sign.
2. A free-standing sign shall be not less than ten feet (10') in height above ground level, except that such sign may be erected not to exceed three feet (3') in height above ground level, provided said sign shall not obstruct the view of or create a visual hazard to motor vehicle traffic entering and exiting the premises.
3. All free-standing signs shall be maintained exclusively on the lot owned or leased by the business unit and shall not encroach upon any of the required yard areas nor be closer than five feet (5') from public right-of-way or sidewalk, whichever is greater (in no case shall any sign overhang a sidewalk or public right-of-way), nor closer than twenty feet (20') from any side line unless otherwise provided herein.

D. Monument Sign Regulations

1. A monument sign shall not exceed ten (10) feet above grade or eight (8) feet above the top of the planter or landscape mound, provided said sign shall not obstruct the view of or create a visual hazard to motor vehicle traffic entering and exiting the premises.
2. All monument signs shall be maintained exclusively on the lot owned or leased by the business unit and the edge of the planter or landscape mound shall not encroach upon any of the required yard areas nor be closer than fifteen (15) feet from public right-of-way or sidewalk, whichever is greater, nor closer than twenty (20) feet from any side line unless otherwise provided herein.

E. Attached Sign Regulations

1. Any business unit with access frontage on two or more public rights-of-way shall be permitted to erect an additional attached sign on such frontage in accordance with paragraph A.3 above.
2. No sign shall be erected on the rear or side of any building unless that wall faces and has access onto a public right-of-way and any such signs shall advertise only the name

of the owner, business name, trademark of the business or activity conducted on the premises whereon such sign is located.

Section 6.5 Exemptions

The following shall be exempt from the regulations of this Article to the extent described herein:

- A. Signs erected and maintained pursuant to and in discharge of any government function, or, signs required by any law, ordinance or governmental regulation.
- B. Signs or bulletin boards customarily incidental to places of worship, libraries, schools, or museums; provided, however, that such signs or bulletin boards shall not exceed twelve (12) square feet per face, shall be illuminated only by light of constant intensity, (and may not be illuminated by a flashing or animated light) shall be located only in the front yard on the premises of such institutions, and shall not exceed one (1) sign per front yard.
- C. Non-illuminated signs advertising the sale, lease or rental of the premises upon which the sign is located, having an aggregate face area of not more than four (4) square feet within any residential district and not more than twenty (20) square feet in any industrial or commercial district.
- D. One externally lit professional nameplate not exceeding one (1) square foot for each professional practice located therein.
- E. Memorial signs or tablets depicting names of buildings and dates of erection, when cut into any masonry surface or when constructed of bronze, stainless steel or other similar material.
- F. Refurbishing or general maintenance, which does not alter the size and location of any sign(s) lawfully erected or in existence on the date of the original adoption of this Ordinance.
- G. One sign, not exceeding twenty (20) square feet, listing the architect, engineer, contractor, owner or other professional where construction, renovation or repair is in progress.
- H. Outdoor advertising signs and billboards, which are controlled by federal and state regulations (i.e., Federal Highway Beautification Act of 1965 [23 USC Section 131] and New York Highway Law [Section 88], respectively.)
- I. Signs of no more than twenty (20) square feet in area identifying an existing subdivision of property.
- J. "Grand Opening" displays for a period of fourteen (14) days, only after written notice to the Town. Such signs shall not be considered temporary signs as regulated by this section.
- K. Flags or insignia of any government, except when displayed in connection with a commercial promotion.

- L. Message flag signs.
- M. On premise informational signs identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or non-illuminated, not exceeding three (3) square feet per face and four (4) feet tall.
- N. Non-illuminated warning, private drive, posted or no trespassing signs not exceeding two (2) square feet per face.
- O. House building numbers not exceeding two (2) square feet in size.
- P. Lawn signs identifying residences.
- Q. Private owner merchandise sale signs for garage sales and auctions not exceeding four (4) square feet for a period not exceeding three calendar days in a year.
- R. One temporary sign for a roadside stand selling agricultural produce grown on the premises, provided that such sign not exceed twenty (20) square feet.
- S. Residential holiday decorations, including lighting.
- T. Gasoline station signs attached to gasoline pumps not exceeding four (4 square feet) and not exceeding the width of the pump.
- U. Political posters, banners and signs, providing:
 - 1. Placement shall not exceed forty-five (45) days prior to an election or political event and must be removed within three (3) days after the election or political event.
 - 2. Political posters, banners and signs may not be placed in locations that obstruct vision or create a safety hazard.
 - 3. Signs in public rights-of-way may not exceed four (4) square feet in size.

Section 6.6 Permits and Procedures

A. Permits

After the effective date of this Article and except as otherwise herein provided, no person shall erect any sign as defined herein as requiring a permit without first obtaining such permit or approval from the Zoning Enforcement Officer or Zoning Board of Appeals.

B. Application for Permit

Application for the permit shall be made to Town of Plattsburgh in writing upon forms provided by the Zoning Enforcement Officer and shall contain the following information:

1. Name, address and telephone number of applicant; and
2. Location of building, structure or land to which or upon which the sign is to be erected, together with a statement as to all other existing signs on said premises; and
3. A detailed drawing or blueprint showing size of the proposed sign, together with a description of the construction details of the proposed sign and the lettering and/or pictorial matter of which the sign will be composed; position of lighting or other extraneous devices; and
4. A location plan showing the position of the sign on any building or lot and its position in relation to nearby buildings or structures and to private or public street or highway and lot lines; and
5. Written consent of the owner (or the duly authorized agent) of the building, structure or land to which or on which the sign is to be erected, in the event the Applicant is not the owner thereof.

No sign shall be permitted and no permit issued unless the construction or erection thereof complies with safe and existing methods of construction or erection and does not endanger the users of the public streets or sidewalks of the Town. Electric signs or parts thereof must display an Underwriters Laboratories Seal of Approval or owner must furnish a Board of Fire Underwriters Certificate within thirty (30) days.

C. Permit Fees

The permit fees shall be established from time to time by the Town Board and posted in the Town Hall.

D. Issuance of Permit

It shall be the duty of the Zoning Enforcement Officer upon the filing of an application for a permit to erect a sign, to examine such plans, specifications and other data submitted to him/her with the application, and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. The Zoning Enforcement Officer shall, if it appears to him/her that the proposed sign is in compliance with all requirements of this Ordinance and other laws and ordinances of the Town, issue a permit for the erection of the proposed sign. If the sign authorized under any such permit has not been completed within six (6) months from the date of the issuance of such permit, the permit shall become null and void but may be renewed within ten (10) days from the expiration thereof for a good cause shown upon payment of an additional fee.

E. Revocation of Permit

No sign, whether new or existing, shall hereafter be erected or altered, except in conformity with the provisions of this Article.

In the event of a violation of any of the foregoing provisions, the Zoning Enforcement Officer shall give written or personal notice specifying the violation to the named owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the sign and the owner of the land within thirty (30) days from the date of said notice. In the event such sign shall not be so conformed within thirty (30) days, the Zoning Enforcement Officer shall thereupon revoke the permit and such sign shall be removed by the named owner of the sign and/or the named owner of the land.

Section 6.7 Removal of Certain Signs

- A. Any sign existing on or after the effective date of this Article which no longer advertises an existing business conducted or product sold on said premises or any sign for which the permit has been revoked, shall be removed by the owner of the premises upon which such sign is located within thirty (30) days after written notice has been served, either personally or by delivering same to owner at his/her last known place of residence. If the name of the owner or his/her place of residence cannot be ascertained after due diligence, said written notice shall be posted in a conspicuous place upon the premises. Upon failure to comply with such notice within the prescribed time, the Town Board shall remove such sign or cause same to be removed. In such case, a bill for the expenses incurred thereby shall be presented to the owner in the same manner as the service of notice above cited. If the owner shall fail to pay the same, cost of the removal, together with a statement as to the premises from which the said sign was removed, shall be added to the next Town assessment levied on that premises and collected in the same manner as the general Town tax.
- B. Upon the Zoning Enforcement Officer finding that any sign regulated by this Article is unsafe or insecure, or is a menace to the public, s/he shall give five (5) business days' written notice to the owner of the premises and shall have the same power as set forth in paragraph A, above, to remove any such sign or cause same to be removed and shall seek reimbursement for any such removal by filing with the Town Board a certificate of actual removal costs, together with a statement as to the premises from which any sign was removed and said costs shall be collected in the same manner as the general Town tax.
- C. The Zoning Enforcement Officer may cause any sign, which is a source of immediate peril to persons or property to be removed summarily and without notice and may seek reimbursement as herein provided.

Section 6.8 Non-Conforming Signs

- A. Every sign lawfully in existence on the effective date of this Article shall be allowed to continue in use. However, if any existing sign is removed, relocated, altered or replaced, it must be done so as to conform with the provisions of this section.

- B. In the case of any sign not lawfully in existence immediately prior to the enactment of this section, enforcement of this Article and removal of said sign shall be effective within thirty (30) days and replacement and removal cost shall be borne by the owner.
- C. This paragraph shall not be construed to prohibit character alterations of signs lawfully in existence on the date of the original adoption of this section if said alterations:
 - 1. Are duly approved by the Zoning Enforcement Officer.
 - 2. Do not include an increase in size to the existing sign or an increase in the non-conforming characteristics of the existing sign.
 - 3. Do not promote a new business or occupancy including change in (i) business name, (ii) change, expansion or reduction in use or uses, and/or (iii) change in ownership or tenancy of the business.

Permitted character alterations to a non-conforming sign under this section shall not be construed to affect the non-conforming classification of the sign.

- D. A non-conforming sign, which is destroyed or damaged to an extent in excess of 50% of its replacement cost shall not be replaced or repaired except by a sign, which conforms to the provisions of this Ordinance. Any non-conforming sign existing as of the effective date of this Ordinance shall not be enlarged, rebuilt, structurally altered or relocated, except to make such sign conform. Any refurbishing, altering or repairing of any non-conforming sign shall not extend the depreciable life of the sign or exceed 50% of its replacement cost.

Section 6.9 Appeals

Any person aggrieved by the decision or action of the Zoning Enforcement Officer under this Article shall be entitled to make application to the Town Zoning Board of Appeals. Such Applicant shall comply with all procedural requirements prescribed by the Board.

ARTICLE VII SITE PLAN REVIEW

Section 7.1 Site Plan Review and Approval

A. Purpose

The purpose of site plan review is to ensure that a site can properly accommodate proposed new uses and/or structures or expansion of existing uses and structures with minimal effect on neighboring properties and the general area within the vicinity of the site and to ensure that such development is appropriately integrated into the community in accordance with the goals and objectives of this chapter and the Comprehensive Plan. The purpose of this article is to provide the required procedures and criteria to be followed for site plan review for those uses and actions requiring such review as set forth throughout this chapter. Because of their characteristics or the special characteristics of the area in which they are to be located, these uses and actions require special consideration so that they may be properly located and planned with respect to:

1. The objectives of this chapter.
2. Their effect on surrounding properties.
3. The ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of health, safety and welfare of the Town and its citizens.
4. The objectives of the Comprehensive Land Use Plan.

Section 7.2 Applicability

A. Land use activities requiring site plan review are listed in Schedule A, except the following shall not require site plan review:

1. Construction of a one or two-family dwelling and permitted accessory to such dwellings on approved existing lots or structures.
2. Landscaping, grading, clearing, grubbing or logging not carried out in association with a use subject to site plan review or special use permit.
3. Ordinary repair, maintenance or interior alterations to existing structures or uses.
4. Addition or other site change affecting less than 1,000 square feet, cumulatively from the date of enactment of this section. Any such change must be in conformance with the other requirements of this law.

5. Change in use of an existing building which results in an increase in parking requirements of less than 5 cars, cumulatively from the date of enactment of this section. Any such change must be in conformance with the other requirements of this law.
 6. The production and sale of agricultural produce grown or manufactured on the premises and temporary structures related to sale of agricultural produce.
 7. Construction of any fence, driveway or residential lighting in the MH, R-1, R-2, R-3, R-4 and L districts.
- B. Any person uncertain of the applicability of this Ordinance to a given land use activity may apply in writing to the Zoning Enforcement Officer for a written jurisdictional determination.

Section 7.3 Authority to Approve and Disapprove

In accordance with § 274-a of the Town Law and this article, the Planning Board is authorized to review and to approve, approve with modifications and/or conditions, or disapprove site plans, prepared to specifications set forth in this chapter and in regulations of the Planning Board, showing the arrangement, layout and design of the proposed use of the land shown on such plan.

Section 7.4 Sketch Plan

- A. A sketch plan conference (S.P.C.) shall be held between the Planning Board and the Applicant prior to the preparation and submission of a detailed formal site plan application. The S.P.C. is intended to:
1. Enable the Applicant to inform the Planning Board of his/her proposal prior to the submittal of a formal detailed site plan application; and
 2. Allow the Planning Board to review the basic site design concept; and
 3. Allow the Planning Board to advise the Applicant as to potential problems and concerns; and
 4. Allow the Planning Board to determine the information to be required with the formal detailed site plan application; and
 5. Allow the Planning Board and Applicant to review the project so as to determine the type of action and procedures to be followed in accordance with Article 8 provisions of the New York State Environmental Quality Review Act ("SEQRA" hereafter).
- B. In order to accomplish these objectives, the Applicant should provide the following information to the Secretary of the Planning Board a minimum of twenty-one (21) consecutive days prior to the S.P.C.:

1. A statement describing the proposed land use activity relative to the current zoning district use and area requirements; and
2. A sketch, drawn to a scale of one (1) inch equals two hundred feet (200'), or the scale of the existing tax map for that parcel, showing the locations and dimensions of all existing and proposed land use activities, buildings, structures, parking areas, all proposed signs, access signs (with descriptions, and size) existing and proposed vegetation, existing and proposed site drainage, NYSDEC and US Army Corps of Engineers designated wetlands, the 100-year floodplain, public and private utilities, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with wetland, flood hazard and flood insurance regulations; and
3. An area map showing the parcel under consideration, all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within two hundred (200) feet of the boundaries of the parcel; and
4. A topographic or contour map at one (1) inch equals two hundred (200) foot scale minimum to show site topography.
5. The applicable fee(s) as established from time to time by Town Board resolution.

Section 7.5 Application for Detailed Site Plan Approval

An application for detailed site plan approval shall be made in writing and shall be accompanied by a detailed site plan and report prepared by a Qualified Professional along with required site plan fees. The application, including the detailed site plan and fees, shall be submitted to the Secretary of the Planning Board a minimum of twenty-one (21) consecutive days before the scheduled Planning Board meeting at which the detailed site plan is to be reviewed. Said detailed site plan application packet shall contain all information as designated on the following checklist. If the Applicant and Planning Board discussed the project at a S.P.C., the required information shall be drawn from the following checklist together with other elements as determined necessary by the Planning Board at said S.P.C.

All plans and specifications shall be drawn to a scale of one (1) inch equals fifty (50) feet unless otherwise allowed by the Planning Board at the S.P.C.

- A. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing; and
- B. North arrow, graphic and numeric scale and date (initial plan date and provisions for plan revision dates); and
- C. Metes and bounds dimensions of the property prepared by a New York State Licensed Land Surveyor; and

- D. All existing and proposed structures, features, and land use activities. For new construction or alterations to any structure, a table containing the following information shall be included:
 - 1. Gross building area of structure to be used for particular purposes such as retail operation, office, storage, etc.; and
 - 2. Estimated maximum number of employees on maximum working shift; and
 - 3. Maximum seating capacity, where applicable; and
 - 4. Number of parking spaces existing and required for the intended use; and
 - 5. Existing and proposed open space; and
 - 6. Proposed building setbacks for each yard; and
- E. Parcels immediately adjacent to the subject parcel, prepared by a New York State Licensed Land Surveyor, and, for each parcel, the owner's name and address with current deed date and recording data; and
- F. Existing watercourses, flood hazard areas, flood insurance zones, and New York State-designated and Army Corps of Engineers wetland areas, prepared by a Licensed Land Surveyor; and
- G. Grading and drainage plan, showing existing and proposed contours at a maximum of two (2) foot contour interval (USGS –NGVD datum for contour information on the detailed site plan shall be taken from existing USGS-NGVD Vertical Control monuments with their bench mark reference designated on the site plan). Planimetric and topographic information shall extend a minimum of fifty feet (50') beyond the property boundary; and
- H. Comparison of proposed project's NGVD elevations with elevations designated on the public sanitary system. Results thereof shall appear on the detailed site plan. (This applies only when a proposed site plan project is within 2,000 feet of an existing public sanitary sewer collection or treatment facility.); and
- I. Exterior dimensions of all existing and proposed structures, with distances between all structures and distances between all structures and property lines properly dimensioned; and
- J. Type of construction materials and exterior color(s), height (eave and peak) and other exterior features for all existing and proposed structures, properly dimensioned; and
- K. Elevations of all views for all existing and proposed structures; and
- L. Location, design and type of construction of all existing and proposed parking, truck loading areas, snow storage areas, vehicular access and egress, with profile elevations and cross-section details provided at fifty (50) foot intervals; and

- M. Existing and proposed provision for pedestrian access and movement; and
- N. Existing and proposed pedestrian and vehicular links to adjacent lots and public rights-of-way; and
- O. Analysis of traffic impacts, including, if requested by the Planning Board, a traffic impact study; and
- P. Location of existing and proposed outdoor storage, if any, properly dimensioned; and
- Q. Location, design, construction materials and written specifications of all existing and proposed site improvements including drains, culverts, retaining walls, and fences; and
- R. Method of sewage disposal with location, design, construction materials and written specifications of such facilities, properly dimensioned, with profiles, elevations and cross sections details provided at fifty (50) foot intervals; and
- S. Method of securing water with location, design, construction materials and written specifications of such facilities, properly dimensioned with profiles, elevations and cross sections details provided at fifty (50) foot intervals;) and
- T. Location of existing and proposed fire and other emergency zones, including the location of fire hydrants with fire flow test results not more than twenty-four (24) months old; and
- U. Location, design, construction materials and written specifications of all energy distribution facilities, including electrical, gas and solar energy, properly dimensioned; and
- V. Location, size, design and type of construction of all existing and proposed signs demonstrating either compliance with Article VI or proof of a granted Variance; and
- W. Location of existing and proposed buffer areas, including existing and proposed vegetative cover; and
- X. Location, design and written specifications of all existing and proposed outdoor lighting facilities, including a lighting lumens plan; and
- Y. Identification of each land use activity and the numerical amount of building area for all existing and proposed structures and land use activities within the project; and
- Z. Location, design and written specifications of all materials to be used in the landscaping plan and planting schedule for the proposed project, including a comparison of any previously approved planting plan with the current site plan; and
- AA. Information for landscaping and planting schedule previously approved for the site relative to approved planting and planting existing at the time of the new detailed site plan approval; and

- BB. An estimated project site plan improvement construction cost sheet (excluding building cost); and
- CC. Project schedule for all site plan improvements and proposed buildings or structures; and
- DD. Identification of all federal, state, county or other local permits required for the project's execution; and
- EE. Record of all other applications and approval status of all necessary permits from federal, state, county and local officials; and
- FF. A Storm Water Management Report, prepared by a licensed engineer, surveyor, landscape architect or other qualified professional providing, at a minimum, the following information:
 - 1. Narrative of proposed storm water management system and basis of design. The stormwater management report shall analyze the impacts of the project using a 10-year and 25-year return interval for residential projects and a 10-year, 25-year and 50-year return interval for commercial projects. Impacts on downstream properties shall be analyzed as part of the report. All projects that require coverage under the NYSDEC SPDES General permit for Stormwater Discharges from Construction Activities shall be designed in accordance with said permit and the NYSDEC Stormwater Management Design Manual; and
 - 2. Basis of closed storm water conveyance systems to be a ten (10) year storm event. Provide computations for flow, size and scope of each pipe section; and
 - 3. Pre-development and post development runoff generation. Detention facilities shall be based upon a twenty-five (25) year post development runoff with peak discharge limited to the pre-development runoff from a ten (10) year storm event at the discharge point; and
- GG. An Erosion and Sediment Control Plan consistent with New York State standards and specifications shall be formulated and presented as part of the submitted plan; and
- HH. Location of designated snow stockpiling areas in compliance with the Project's Stormwater Management Plan; and
- II. The applicable fee(s) as established from time to time by Town Board resolution; and
- JJ. Information to demonstrate that the length and width of drive-through lanes, both before and after the drive-through window or other feature is sufficient to provide enough stacking need for the vehicles entering and exiting the facility, along with adequate bypass lanes; and
- KK. Other elements integral to the proposed site plan development as considered necessary by the Planning Board.

Section 7.6 Public Notice and Hearing

The Planning Board shall provide notice of public hearing and data regarding the substance of the application to the owners of all property abutting that land held by the Applicant and, at the discretion of the Planning Board, all other owners within five hundred (500) feet, or such additional distances that the Planning Board may deem advisable, of the land involved with such application. Notice shall be mailed at least five (5) calendar days prior to the meeting.

The Planning Board shall additionally provide notice as follows:

- A. By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the Town of Plattsburgh; and
- B. By providing written notice of the public hearing, which shall include a brief summary of the substance of the application to the owners of all property abutting or adjacent to the property being reviewed and within 500 feet of said property. Notice shall be mailed at least five (5) calendar days prior to the hearing. The names of owners notified shall be taken from the last completed tax roll of the Town; and
- C. If the land involved in the hearing lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Planning Board shall also submit, at least ten (10) calendar days prior to the public hearing, to the municipal Clerk of such other municipality or municipalities, a copy of the notice of the substance of the appeal, together with a copy of the official notice of such public hearing;
- D. Provided that there has been substantial compliance with these provisions, the failure to give notice in exact performance herewith shall not invalidate an action taken by the Town in connection with granting or denying a permit application.

Section 7.7 Referral to the County Planning Board

Prior to taking action on the site plan application, the Planning Board shall refer a copy of the detailed application with completed Environmental Assessment Form and related plans, specifications and reports to the Clinton County Planning Board for its review in accordance with Section 239m of the General Municipal Law, if applicable. No action shall be taken by the Planning Board on such detailed site plan application until an advisory recommendation has been received from the County Planning Board or thirty (30) calendar days have lapsed since the County received such detailed site plan application materials. Applicable uses include any site plan within five hundred (500) feet of:

- A. The boundary of any city, village, or town; or
- B. Any existing or proposed county or state park or other recreation area; or
- C. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or

- D. the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- E. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
- F. The boundary of a farm operation located in an agricultural district, as defined by Article Twenty-Five AA of the Agriculture and Markets Law; or
- G. Other uses as may be determined in General Municipal Law Section 239-m as amended and in effect at the time of site plan application submittal to the Planning Board.

Section 7.8 Review of Detailed Site Plan

The Planning Board's review of the detailed site plan shall include but not be limited to, the following general considerations:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs; and
- B. Adequacy and arrangement of on and off-site vehicular traffic access, circulation and safety therein, including intersections, pavement widths, pavement surfaces, dividers, traffic control devices, and links to adjoining lots and access rights-of-way; and
- C. Impacts of off-site traffic and circulation; and
- D. Location, arrangement, appearance and sufficiency of off-street parking and loading; and
- E. Adequacy and arrangement of on and off-site pedestrian traffic access and circulation, including connections to adjacent lots and public rights-of way, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience; and
- F. Adequacy of proposed storm water detention/retention basins, the engineering hydraulic report, and other proposed drainage facilities, including impact upon adjoining properties and downstream structures; and
- G. Adequacy of existing and proposed water supply and sewage disposal facilities; and
- H. Adequacy, type and arrangement of existing and proposed trees, shrubs and other planting and landscaping plans constituting a visual and/or noise buffer between the Applicant's project and adjoining lands, including the maximum retention of existing vegetation; and
- I. Adequacy, type and arrangement of existing and proposed trees, shrubs, other landscaping constituting a visually aesthetic project; and

- J. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants; and
- K. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion; and
- L. Adequacy of lighting, including the functionality; efficiency; aesthetic appearance; and, impact on adjacent properties, pedestrian and vehicular travel-ways, and the skies; and
- M. The extent to which cultural, historic and/or archaeological resources are incorporated in or protected by the plan.

Section 7.9 Compliance With State Environmental Quality Review Act

Proposed projects are actions subject to the provisions of SEQRA. Prior to rendering its decision, the Planning Board shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

Section 7.10 Planning Board Action on Site Plan

- A. Within sixty-two (62) days of the receipt of a complete site plan application for site plan approval, as determined by the Planning Board, the Planning Board shall grant preliminary approval, preliminary approval with modifications, preliminary approval with conditions, or disapproval of the site plan. The Planning Board shall file said decision with the Town Clerk and mail such decision to the Applicant with a copy to the Town Planning Department and the Zoning Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the Applicant and Planning Board.
- B. Upon the Planning Board's review of the detailed site plan application and related material and the adoption of a Planning Board resolution granting the preliminary approval, preliminary approval with modifications, or preliminary approval with conditions of the detailed preliminary site plan, and upon the Applicant meeting all the conditions of the Planning Board as stated in the Planning Board's resolution granting the preliminary approval, if any, and the payment by the Applicant of all fees and reimbursable costs due to the Town, the Planning Board Chair shall endorse the Planning Board's preliminary approval on a copy of what is hereinafter referred to as the "Approved Detailed Preliminary Site Plan" (ADPSP) and shall forward a copy of the Planning Board's resolution with supporting materials and the ADPSP executed by the Planning Board Chair to the Applicant. The Planning Board shall forward a copy of the Planning Board's resolution granting approval of the detailed preliminary site plan to the Town Planning Department and Zoning Enforcement Officer, and file same with the Town Clerk. Upon the Applicant's, Town Planning Department's and Zoning Enforcement Officer's receipt of the ADPSP and Planning Board's resolution, the Zoning Enforcement Officer shall process a building permit for the proposed buildings, structures, utilities and other site plan related improvements as shown on the ADPSP on file with the Town. The Applicant shall construct all site plan improvements in accordance with and as shown on the ADPSP.

- C. Upon disapproval of a detailed site plan application, the Planning Board shall so inform the Town Planning Department and Zoning Enforcement Officer and the Zoning Enforcement Officer shall deny a permit to the Applicant. The Planning Board shall also notify the Applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.
- D. Expiration of approval. Unless otherwise specified or extended by the Planning Board, a decision on any site plan review shall expire if;
 - 1. The applicant fails to undertake the proposed action or project, or
 - 2. Fails to obtain any necessary building permits, within one year from the filing date of this decision. A Site Plan Review Decision may be renewed upon application by the Applicant, payment of any applicable fee and approval of the application by the Planning Board.

Section 7.11 Reimbursable Costs

Costs incurred by the Planning Board for consultation fees, staff review costs, or other expenses in connection with the review of a detailed site plan application shall be charged to the Applicant.

The Planning Board may require the posting of financial security in the form of cash, bank check or such other form acceptable to the Town Planning Attorney in order to ensure that reimbursements and/or improvements are carried out as specified in the plans and approvals.

Section 7.12 As-Built Plans

The Town Planning Department shall be responsible for the general inspection of the ADPSP improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. The Applicant shall submit "as built plans", prepared and certified to by a licensed land surveyor, architect, landscape architect or professional engineer to the Town Planning Department. Said as built plans shall show to scale all improvement(s) as they were built, as compared to the way they were submitted and approved on the detailed site plan. As built plans shall be reviewed by the Town, and when necessary revised by the Licensed Land Surveyor or Professional Engineer, to show "as built data" and then be resubmitted for review. The as built plan submittal process shall be repeated until all ADPSP improvements are shown thereon and the information is in compliance with the ADPSP. If the as built site plan data does not comply with the ADPSP conditions, the Applicant shall correct the condition and cause a new as-built plan to be submitted for review. All costs associated with the preparation and submittal of the as built plans or any reconstruction of the site plan improvements to comply with the ADPSP shall be the responsibility of the Applicant.

Section 7.13 Performance Guarantee

No certificate of occupancy for any portion of the proposed project shall be issued until all improvements shown on the site plan are installed and found to be in compliance with the ADPSP by the Town Planning Department, with the final as built plans, or a sufficient performance guarantee has been posted for site plan improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Planning Department in consultation with appropriate parties.

Section 7.14 Certificate of Occupancy Prior to Completion of Site Work

A Temporary Certificate of Occupancy may be issued by the Zoning Enforcement Officer for a building area or complex of structures within the *Approved Detail Site Plan Review*, ADPSP provided the following items are provided by the Applicant and accepted by the Town Planning Department and the Zoning Enforcement Officer:

- A. All building improvements for the area to be occupied have been completed, inspected and found to meet the minimum life safety requirements of the New York State Uniform Fire Prevention and Building Code by the Zoning Enforcement Officer; and
- B. As-built plans, as required above, have been prepared and submitted and show all site plan improvement data for site plan improvements completed to date; and
- C. A list of uncompleted but required site plan improvements shown on the ADPSP, together with a cost estimate representing the costs associated with the work necessary to complete all required site plan improvements as shown on the ADPSP; and
- D. A performance guarantee, in an amount equal to 100% of the cost estimate submitted in Part (C), above, in the form of cash or bank check from a local bank or such other form acceptable to the Town Planning Department, for all uncompleted site plan improvements, including the as-built site plan preparation and submittal process.

Section 7.15 Integration of Procedures

Whenever the particular circumstances of proposed development require compliance with other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this Article with the procedural and submission requirements for such other compliance.

Section 7.16 Appeal of Board Decision

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by such board in the office of the Town Clerk.

ARTICLE VIII SPECIAL USE PERMIT REVIEW

Section 8.1 Special Use Permit Review and Approval

Prior to the issuance of any permit for which a special use permit is required, the Zoning Enforcement Officer shall require special use permit approval by the Planning Board pursuant to this Article. The Zoning Enforcement Officer shall notify an Applicant for a permit when special use permit approval is required in accordance with the provisions of this Ordinance.

Section 8.2 Applicability and Granting of Special Use Permit

All special permit uses specified in Schedule A, Use Regulations, shall be subject to review and approval by the Planning Board in accordance with the procedures and standards included herein. In all cases where this Ordinance requires such special use permit authorization by the Planning Board, no permit or certificate of occupancy shall be issued by the Zoning Enforcement Officer except upon authorization of and in full conformity with plans approved by the Planning Board.

Section 8.3 Procedure

The Planning Board shall review and act on all special use permit applications in accordance with the procedure set forth in Article VII except that a public hearing shall be mandatory.

Section 8.4 Public Notice and Hearing

The Planning Board shall provide notice of public hearing and data regarding the substance of the application to the owners of all property abutting that land held by the Applicant and, at the discretion of the Planning Board, all other owners within five hundred (500) feet, or such additional distances that the Planning Board may deem advisable, of the land involved with such application. Notice shall be mailed at least five (5) calendar days prior to the meeting.

The Planning Board shall additionally provide notice as follows:

- A. By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the Town of Plattsburgh.
- B. By providing written notice of the public hearing, which shall include a brief summary of the substance of the application to the owners of all property abutting or adjacent to the property being reviewed and within 500 feet of said property boundary. Notice shall be mailed at least five (5) calendar days prior to the hearing. The names of owners notified shall be taken from the last completed tax roll of the Town.

- C. If the land involved in the hearing lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Planning Board shall also submit, at least ten (10) calendar days prior to the public hearing, to the municipal Clerk of such other municipality or municipalities, a copy of the notice of the substance of the appeal, together with a copy of the official notice of such public hearing.
- D. Provided that there has been substantial compliance with these provisions, the failure to give notice in exact performance herewith shall not invalidate an action taken by the Town in connection with granting or denying a permit application.

Section 8.5 Application

All applications made to the Planning Board shall be in writing on forms prescribed by the Town and accompanied by the applicable fee(s) as established by Town Board resolution. The Applicant shall be required to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development.

Section 8.6 General Standards

Approval is conditional upon the provision of adequate safeguards to protect the health, safety, and general welfare of the public and minimize possible detrimental effects of the proposed use on adjacent property.

A. Adjacent Land Uses

The proposed use should not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. To the extent possible, the proposed use shall not have a negative effect on adjacent land uses.

B. Location and Size of Use

The nature, scale and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets providing access, shall, to the extent possible, be in harmony with the orderly development of the district.

C. Vehicular Access and Circulation

Adequacy and arrangement of vehicular traffic access and circulation, including intersections, drive-through stacking and exit lanes, links with adjacent and nearby land uses, road widths, alignment, grade, pavement surfaces, channelization structures, visibility and traffic controls shall be considered.

D. Pedestrian Circulation

Adequacy and arrangement of pedestrian traffic access and circulation, links with adjacent and nearby land uses, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience shall be considered.

E. Parking

Location, arrangement, appearance and sufficiency of off-street parking and loading shall be considered.

F. Layout

The location, arrangement, size, design and general site compatibility of buildings, lighting and signage shall be considered.

G. Drainage Facilities/Erosion Control

Adequacy of stormwater management plans and drainage facilities with regard to their impact on adjoining properties and downstream structures shall be considered.

H. Water and Sewer

Adequacy of water supply and sewage disposal facilities and their compliance with all applicable regulations shall be required.

I. Vegetation

The type and arrangement of trees, shrubs and other landscaping components shall be considered. Existing vegetation shall be retained to the extent possible.

J. Emergency Access

Adequate provision of fire, police and other types of emergency vehicles shall be made.

K. Flooding

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

L. Lighting

The impacts of lighting on adjacent areas and areas within viewing distance shall be considered.

M. Other

Other elements integral to the proposed site plan development as considered necessary by the Planning Board

Section 8.7 Additional Specific Standards

In addition to the above general standards, the following specific standards shall apply:

A. Gasoline Sales Stations

Specific consideration shall be given to traffic flow as well as danger to the general public due to hazards of fire and explosion.

B. Bulk Storage of Flammable Liquids

When above ground and intended for commercial or industrial purposes, all storage and handling facilities shall be at least four hundred (400) feet from any residential district.

C. Adult Uses

1. Adult uses are recognized as having serious objectionable operational characteristics, including deleterious effects upon nearby areas. Special regulation of such uses is necessary to ensure they do not contribute to the blighting of the area.
2. No adult use shall be located within five hundred (500) feet of the nearest district boundary in which it is located.
3. No adult use shall be located within one thousand (1,000) feet of the nearest property line of any residential use; public, parochial or private school; educational institution; museum; library; commercial recreational facility; public recreation facility; or, place of worship.
4. No adult use shall be within one thousand five hundred (1,500) feet of any other adult use.

Section 8.8 Referral to County Planning Board

Prior to taking action on the special use permit application, if applicable, the Secretary of the Planning Board shall refer a copy of the application materials to the Clinton County Planning Board for its review in accordance with Section 239m of the General Municipal Law. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Planning Board or thirty (30) calendar days have lapsed since the County received such full statements. Applicable uses include any site plan within five hundred (500) feet of:

- A. The boundary of any city, village, or town; or
- B. Any existing or proposed county or state park or other recreation area; or

- C. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
- D. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- E. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
- F. The boundary of a farm operation located in an agricultural district, as defined by Article 25 AA of the Agriculture and Markets Law, or
- G. Other uses as may be determined in General Municipal Law Section 239-m as amended and in effect at the time of site plan application submittal to the Planning Board.

Section 8.9 Compliance with State Environmental Quality Review Act

Proposed projects are actions subject to the provisions of SEQRA. Prior to rendering its decision, the Planning Board shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

Section 8.10 Reimbursable Costs

Costs incurred by the Planning Board for consultation fees, staff review cost or other expenses in connection with the review of a proposed Special Use Permit site plan shall be charged to the Applicant.

Section 8.11 As-Built Plans

The Town Planning Department shall be responsible for the general inspection of the *Approved Detailed Preliminary Site Plan ADPSP* improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. The Applicant shall submit "as built plans", prepared and certified to by a Licensed Land Surveyor or Professional Engineer to the Town Planning Department. Said as built plans shall show to scale all improvement(s) as they were built, as compared to the way they were submitted and approved on the detailed site plan. As built plans shall be reviewed by the Town, and when necessary revised by the Licensed Land Surveyor or Professional Engineer, to show "as built data" and then be resubmitted for review. The as built plan submittal process shall be repeated until all ADPSP improvements are shown thereon and the information is in compliance with the ADPSP. If the as built site plan data does not comply with the ADPSP conditions, the Applicant shall correct the condition and cause a new as-built plan to be submitted for review. All costs associated with the preparation and submittal of the as built plans or any reconstruction of the site plan improvements to comply with the ADPSP shall be the responsibility of the Applicant.

Section 8.12 Performance Guarantee

No certificate of occupancy for any portion of the proposed project shall be issued until all improvements shown on the site plan are installed and found to be in compliance with the ADPSP by the Town Planning Department, with the final as built plans, or a sufficient performance guarantee has been posted for site plan improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Planning Department in consultation with appropriate parties.

Section 8.13 Certificate of Occupancy Prior to Completion of Site Work

A Temporary Certificate of Occupancy may be issued by the Zoning Enforcement Officer for a building area or complex of structures within the *Approved Detail Site Plan Review* provided the following items are provided by the Applicant and accepted by the Town Planning Department and the Zoning Enforcement Officer:

- A. All building improvements for the area to be occupied have been completed, inspected and found to meet the minimum life safety requirements of the New York State Uniform Fire Prevention and Building Code by the Zoning Enforcement Officer; and
- B. As-built plans, as required above, have been prepared and submitted and show all site plan improvement data for site plan improvements completed to date; and
- C. A list of uncompleted but required site plan improvements shown on the ADPSP, together with a cost estimate representing the costs associated with the work necessary to complete all required site plan improvements as shown on the ADPSP; and
- D. A performance guarantee, in an amount equal to 100% of the cost estimate submitted in Part (C), above, in the form of cash or bank check from a local bank or such other form acceptable to the Town Planning Department, for all uncompleted site plan improvements, including the as-built site plan preparation and submittal process.

Section 8.14 Integration of Procedures

Whenever the particular circumstances of proposed development require compliance with other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, special use permit review as required by this Article with the procedural and submission requirements for such other compliance.

Section 8.15 Appeal of Board Decision

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by such Board in the office of the Town Clerk

ARTICLE IX PLANNED DEVELOPMENT DISTRICTS

Section 9.1 Purpose and Objectives

It is the purpose of this Planned Development District (PDD) procedure to provide flexible land use and design regulations to provide for the rezoning of land so that well designed medium to large scale commercial or mixed use developments may be developed in a compatible and unified plan of development. This section specifically encourages innovation in mixed-use development so that demand for housing at all economic levels may be met by greater variety in type, design and siting of dwellings and by the conservation of important open space and more efficient use of land. The conventional use and area specifications set forth by other sections of this Ordinance are replaced by the approved PDD plan, which then becomes the legislative basis for detailed design, review and control of subsequent development.

While flexibility in substantive regulations is encouraged, it is intended that this procedure and the purposes of this Ordinance, as specified in Section 1.2, shall ensure the general welfare through equal treatment under the law, as well as precise control of aspects of the development as approved.

Section 9.2 Criteria

A. Location

A PDD may only be created in the Shopping Center Commercial, Service Center and Neighborhood Commercial District and those portions of the R-2 District designated on the Zoning map as the PDD Overlay District.

B. Development Area

The minimum development area required to qualify for a PDD in the Shopping Center Commercial, Service Center and PDD Overlay Districts shall be five (5) contiguous acres. The minimum development area to qualify for a PDD in a Neighborhood Commercial District shall be two (2) acres. The calculation of such land area shall not include existing streets, easements, parks, or otherwise dedicated land or acreage, State or Federally regulated wetlands or slopes in excess of 25%.

C. Ownership

The tract of land for a project shall be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application packet must be filed by the owner, jointly by the owners of all property included in the project, or by the optionee(s) having an interest in the property. In the case of multiple ownership, the

approved plan and its amendments shall be binding on all owners, or their successors in title and interest.

D. Permitted Uses

The following uses are permitted in PDDs. A use variance may not be granted in a PDD.

1. Educational institutions
2. Places of Worship, Convents, Parish Houses
3. Public Recreation Facilities
4. Public Schools, Parochial Schools, Private Schools
5. Public Utility Structures or Facilities
6. Clinics
7. Educational Institutions
8. Public Libraries, Museums
9. Hospitals
10. Business/Professional Offices
11. Financial Institutions
12. Commercial Recreation/Entertainment Facilities
13. Conference Centers
14. Health and Fitness Centers
15. Night Clubs
16. Public Building/Use
17. Restaurants or Other Places for Serving of Food or Beverages
18. Theater
19. Performing Arts Center
20. Retail Sales
21. Multi-family dwelling units

- 22. Townhouses
- 23. Dwellings above the First Floor of Permitted Uses
- 24. Single family residential development in an R-2 PDD overlay district destination (*Zoning Ordinance Amendment Town Board Resolution 013-290 dated December 23, 2013, effective date January 11, 2014*).

E. Bulk Regulations

- 1. PDD in Shopping Center Commercial, Service Center and PDD Overlay Districts.
 - a. Minimum Lot Size: Five (5) acres
 - b. Minimum Frontage: 200 feet
 - c. Maximum Building Area: 50%
 - d. Minimum Open Space: 15%
 - e. Minimum Setback: As determined by the Town Board during the approval process.
 - f. Maximum Height: 60 feet.g. Density: As determined by the Town Board during the approval process.
- 2. PDD in Neighborhood Commercial Districts
 - a. Minimum Lot Size: Two (2) acres
 - b. Minimum Frontage: 100 feet
 - c. Maximum Building Area: 50%
 - d. Minimum Open Space: 15%
 - e. Minimum Setback: As determined by the Town Board during the approval process.
 - f. Maximum Height: 60 feet
 - g. Density: As determined by the Town Board during the approval process.

F. Design Standards

Innovation in design is encouraged in PDDs. Applicants may vary the road and other infrastructure standards in the Plattsburgh Town Code, including the road design standards in the Town Subdivision regulations, if the Town Board finds that doing so will further the objectives of this chapter while not adversely affecting the public health, welfare and safety.

G. Energy Efficiency

All buildings in a PDD shall be designed to meet Energy Star guidelines for energy efficiency set by the United States Environmental Protection Agency.

Section 9.3 Procedure

A. Summary of Procedure. Whenever any PDD is proposed, before any permit for the erection of a permanent building in such PDD shall be granted and before any subdivision plat or any part thereof may be filed in the office of the Clinton County Clerk, the developer or his authorized agent shall apply for and secure approval of such PDD in accordance with the following procedures:

1. Submit sketch plan to the Town Board for consideration. If the Town Board determines that the proposal merits further review, then it may refer the application to the Planning Board.
2. Planning Board review of rezoning referral and sketch plan and public hearing held by Planning Board.
3. Planning Board report to Town Board.
4. Town Board conducts a public hearing on rezoning and conducts SEQR review.
5. Upon approval of rezoning by the Town Board, the Planning Board will review project elements for subdivision or site plan approvals.

B. Application for sketch plan approval.

1. Sketch plan drawing. The application shall include a sketch plan drawn to scale and it shall clearly show the following information:
 - a. The location of the various uses and their areas; and
 - b. The general outlines of the interior roadways system and all existing rights-of-way and easements, whether public or private; and
 - c. The interior open space system; and
 - d. The overall drainage system; and
 - e. If more than 10% of the site has grades exceeding 5%, a topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining slopes over 5%. If grades are less than 5% on 90% or more of the site, the topographic map may be at ten-foot contour intervals; and

- f. Principal ties to the community at large with respect to transportation, water supply and sewage disposal; and
 - g. A location map showing uses and ownership of abutting lands; and
 - h. A long-form environmental assessment form.
2. Additional sketch plan documentation. In addition, the following documentation shall accompany the sketch plan:
- a. Evidence of how the developer's proposed mix of land uses meets existing community demands; and
 - b. A general statement as to how common open space is to be owned and maintained; and
 - c. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project; and
 - d. A description of how the plan is in conformance with the Town's Comprehensive Plan; and
 - e. Evidence of the applicant's physical and financial competence to carry out the plan; and
 - f. A draft Zoning Ordinance amendment creating and describing the Planned Development District, including use and bulk regulations and any conditions applicable to the Planned Development District, for review by the Town Board; and
 - g. A fiscal impact analysis identifying projected short- and long-term impacts on municipal and school district budgets.
3. In order to allow the Town Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit his proposal to the Town Board as set forth in Section 9.3.B. The Town Board, at its next regularly scheduled meeting, may, if it determines that the proposal merits review, refer the application to the Planning Board for review and recommendation. The date of Planning Board receipt of the application shall be the next regular meeting of the Planning Board. If the Town Board determines that the proposal does not merit review because it does not meet the objectives of this article, it shall not refer the application to the Planning Board and no further action on the application shall be taken. After referral by the Town Board and after receipt of all required information, as determined by the Planning Board, the Planning Board shall hold a public hearing in accordance with the hearing requirements of § 7.6 of Article VII and shall render either a favorable or an unfavorable report to the Town Board within 45 days of the closing of the public

hearing. The time period for review may be extended by mutual consent of the developer and the Planning Board.

4. A favorable report shall include a recommendation to the Town Board that the proposal has merit and should proceed to further consideration by the Town Board, including a public hearing to be held for the purpose of considering planned PDD districting. It shall set forth the reasons supporting the recommendation and shall be based on the considerations set forth in § 9.4. Said report must include, at a minimum, the following findings, which shall be included as part of this report:
 - a. That the proposal meets the intent and objectives of PDD districting, as expressed in this article.
 - b. That the proposal meets all the general requirements in this article.
 - c. That the proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and in relation to one another.
 - d. That there are adequate services and utilities available or proposed to be made available in the construction of the development.
 - e. That the proposal is in accordance with the Comprehensive Plan and furthers the policies, goals and/or objectives of the Comprehensive Plan.
5. An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for PDD districting with the Town Board. The Town Board may then determine, on its own initiative, whether or not it wishes to call a public hearing. If the Town Board determines not to hold a hearing, no further action shall be taken and the application shall be considered denied.
6. If no report has been rendered by the Planning Board after 45 days from the date of the closing of the public hearing, unless extended by mutual consent, the applicant may proceed as if a favorable report was issued by the Planning Board.

C. Application for PDD districting.

1. Upon receipt of a favorable report from the Planning Board or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall conduct a public hearing for the purpose of considering planned commercial development districting for the applicant's plan, in accordance with the procedures established by the Town Board for holding meetings, said public hearing to be

conducted within 45 days of the receipt of the favorable report or the decision on appeal from an unfavorable report.

2. If required, the Town Board shall refer the application to the Clinton County Planning Board for its analysis and recommendations if required by New York State General Municipal Law § 239-m, and the Town Board shall also refer the application to such other agencies or consultants it deems appropriate. If County Planning Board review is not required, the Town Board may still refer the application for its review and recommendations.
 3. Within 30 days following receipt of the report from the County Planning Board, the Town Board shall render its decision on the application.
- D. Zoning for planned commercial development district. If the Town Board grants the PDD districting, the Zoning Map shall be so amended. The Town Board shall, in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, firehouses, and libraries, protection of natural and/or historic sites and other physical or social demands.
- E. Site plan and subdivision approvals. Subsequent to obtaining any rezoning under this article, individual project elements shall be subject to subdivision or site plan approvals, as applicable. The procedure for such approvals shall be as specified in Article VII, Site Plan Review, of this chapter for site plan approvals and in the Town of Plattsburgh Subdivision Regulations for subdivision approvals. Due to the intent of PDDs and their flexible, yet cohesive, nature, the subdivision and site plan approval processes may take place simultaneously. Where procedures are in conflict, the more restrictive process will apply.

Section 9.4 Considerations

In determining whether a PDD shall be allowed, the Town Board shall consider the following factors.

- A. The availability and adequacy of water service.
- B. The availability and adequacy of sanitary waste disposal facilities.
- C. The availability and adequacy of transportation systems, including the impact on the road network.
- D. The pedestrian circulation and open space in relation to structures, throughout the proposed development, and as part of an adjoining or future connecting Town wide open and linear pathway system.

- E. The character of the neighborhood in which the PDD is being proposed, including the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- F. The height and mass of buildings and their relation to other structures in the vicinity.
- G. Potential impacts on local government services.
- H. Potential impacts on environmental resources, including wetlands, surface water, floodplains, and plant and wildlife communities.
- I. The general ability of the land to support the development, including such factors as slope, depth to bedrock, depth to water table and soil type.
- J. Other factors as may be deemed appropriate by the Town Board.

Section 9.5 Common Property

- A. Common property in a PDD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. Common property shall be allowed within a PDD and may include private streets, drives, services, parking areas, and recreational and open space areas.
- B. The ownership of land dedicated for park, recreation or open space use shall be determined by the property owner or applicant. The person or entity having the right of ownership shall be responsible for its proper maintenance and continued upkeep. Ownership shall be with one of the following: the Town; another public jurisdiction or agency subject to its acceptance; a private, nonprofit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land; shared, common interest by all property owners in a subdivision; a condominium or cooperative association or organization; or private ownership encumbered by a conservation easement pursuant to § 247 of General Municipal Law or §§ 49-0301 through 49-0311 of the Environmental Conservation Law. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, services, and parking areas and recreational and open space areas.

Section 9.6 Applicability of Conditions

All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of the PDD, or any portion thereof, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such PDD.

Section 9.7 Other Requirements

Additional performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the PDD development, shall also be strictly enforced. If these performance requirements are not met, the property shall revert to its prior zoning classification, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirements.

Section 9.8 Review Fees

The Town Board and the Planning Board may call upon the County Planning Department and any other public or private agencies or consultants that the Boards find necessary to provide a sound review of the proposal. In addition to the fee listed on the schedule of fees, the Town Board and the Planning Boards may charge a fee to developers of projects requiring legal and technical review, provided that the fee reflects the actual cost of legal and technical assistance to the Town Board and the Planning Board.

ARTICLE X AIRPORT DEVELOPMENT DISTRICT

Section 10.1 District Boundaries

The boundaries of the Airport Development District (AD) are shown on the Town of Plattsburgh Zoning Map.

Section 10.2 Permitted Uses and Bulk Requirements

Permitted uses for each sub-district are found in Schedule A of this ordinance. Bulk requirements for each sub-district are found in Schedule C of this ordinance.

Section 10.3 Planning Board Review

A. Site Plan Review and Building Permit Requirements:

All development in the AD except single family dwellings and duplexes shall be subject to Section V Supplementary Regulations, Section VI Signs and Section VII Site Plan Review. All building plans shall be approved by a duly licensed (NYS) architect or duly licensed (NYS) engineer. All construction shall comply with current New York State Building and Fire Code as enacted in New York State Code of Rules and Regulations.

Section 10.4 General Guidelines

In addition to the criteria set forth in Section VII Site Plan Review, projects within the AD shall be designed and constructed in accordance with the following guidelines. **Note** that the Planning Board shall have the power to vary or waive these guidelines during the site plan review process.

- A. **Adjacent Land Uses.** Proposed uses shall not discourage the appropriate development and use of adjacent land and building or impair the value thereof. To the extent possible, the proposed use shall not have a negative effect on adjacent land uses.
- B. **Siting.** Uses shall be sited so that they are in harmony with the principles and guidelines set forth in this section.
- C. **Utilities.** All utilities in the AD shall be located underground, except for those located in regulated wetlands.
- D. **Protection of Viewsheds.** Views of the surrounding area, including views of the Adirondack Mountains and greater Lake Champlain Valley, shall be preserved to maximum extent practical. Views to be protected are shown on the Airport Development District Zoning Map. The existing or potential viewshed of adjacent land uses shall be taken into consideration when reviewing a proposed project.

- E. **Gateway Treatment.** Existing or proposed AD entrances shall be designated District gateways. Such entrances shall include common design features such as pedestrian crosswalks, signage, and landscaping. The intent of such features is to enhance the aesthetic quality of each of the District's existing and/or proposed entrances. At the discretion of the Planning Board, additional features and/or public amenities may be included in the design of any District Gateway.
- F. **Pedestrian Access.** Pedestrian accessibility shall be required throughout the District, particularly within the Mixed Use Area. In order to facilitate pedestrian access, the following standards shall be met:
1. Street frontages should include sidewalks, street trees and streetlights. Sidewalks shall be five feet wide and ADA compliant. They are to be placed between the building and the planting strip when possible. New sidewalks that are to connect to existing sidewalks located adjacent to the street shall be curved or angled to create a continuous walkway. In cases where the existing sidewalk is immediately adjacent to the street (or separated by a very narrow, less than 24 inches, planting strip) the required landscape strip shall be located between this sidewalk and the retail/commercial parking lot.
 2. Pedestrian accessibility in the Industrial/Business and Mixed Use Areas should be walks that link: buildings with other buildings, buildings with parking areas, and buildings with public amenities (i.e., parks).
 3. Pedestrian systems in the Riverfront Conservation Area shall incorporate trails that link to the Industrial/Business and Mixed Use Areas and other District uses and shall include a public trail parallel to the river.
 4. Crosswalks shall be required at every four (4) way intersection. Such crosswalks shall be ADA compliant, and include access ramps and other provisions for persons with disabilities. At the discretion of the Planning Board, additional crosswalks may be required. As a "traffic calming" measure, the Planning board may require sidewalk "bump-outs" to accompany a particular crosswalk.
 5. Pedestrian access to the waterfront within the Riverfront Conservation area shall be a priority.
- G. **Parking.** Off Street parking should be sited so as to minimize the negative visual impacts throughout the District, particularly in the Mixed Use Area wherever practical. Parking should be accommodated behind buildings, along the sides of structures and sited so that adjoining uses can share facilities. Landscaping and/or berms may be required when parking is placed in the front of the building(s). In the Mixed Use Area, large parking areas shall be discouraged and it is recommended that parking areas be divided into smaller, separate lots allowing for placement at the side and rear of facilities.

Section 10.5 Access and Circulation

A. Road Layout & Hierarchy

Roadway hierarchy within the district shall be in conformance with Table 2, Roadway Hierarchy. Existing roadway infrastructure may be reused for proposed roadways with the District. With the exception of Avenue/Boulevard, Road – Two Way Traffic, and Rear Access Alleys, all roadways shall include one (1) or two (2) nine (9) foot parking lanes, sidewalks, and landscaping and/or lighting medians with the goal of achieving complete streets. A complete street is one that allows all users, including pedestrians, bicyclists, motorists and transit riders of all ages to move safely along and across the street.

Table 2 – Roadway Hierarchy

Type	Right-of-Way (ROW) ft.	Travel Way(Total) ft.	Parking	Sidewalk ft.
Avenue/Boulevard (w/ 8' median)	100	12(2)	None	5
Urban Street – One Way Traffic	50	12(1)	Two Side	5
Urban Street – Two Way Traffic	66	12(2)	Two Side	5
Town Street – One Way Traffic	50	12(1)	One Side	5
Town Street – Two Way Traffic	66	12(2)	One Side	5
Road – Two Way Traffic	66	12(2)	None	4
Rear Access Alley	30	16(1)	None	N/A

B. Controlled Vehicular Access

Unrestricted access to individual commercial uses throughout the District will create traffic related issues due to conflicting turning movements and queuing of vehicles. Access for retail and commercial facilities should be shared and interconnection of parking areas shall be required. Adjacent parcels shall be encouraged to share access and in return greater latitude in the placement and sizing of access may be accommodated. Establishment of a service road parallel to roadways may be encouraged.

C. Traffic Circles

The use of traffic circles are encouraged within the AD.

ARTICLE XI WELLHEAD PROTECTION OVERLAY DISTRICT

Section 11.1 Purpose

The Town of Plattsburgh provides potable water to residents through groundwater supply wells. It is therefore in the interest of public health, welfare and safety to protect the Town's public water supply from contamination.

Section 11.2 Location

The Wellhead Protection Overlay District applies to an area of 1,000 feet around each of the Town's public water supply wells. The locations of the wells and corresponding 1,000 foot buffer are shown on the Town of Plattsburgh Zoning Map.

Section 11.3 Applicability

The regulations for this district apply in addition to the regulations in the zoning district in which the water supply well is located. Other local, State and Federal regulations may also apply to the Town's water supply wells.

Section 11.4 Regulations

- A. The following regulations apply within 200 feet of a public water supply well.
 - 1. No sanitary sewage disposal system may be constructed.
 - 2. No manure, septage, food waste or composted sludge may be spread.
 - 3. Open storage of agricultural chemicals or fertilizer is prohibited.
- B. The following activities are prohibited within the entire Wellhead Protection Overlay District.
 - 1. Disposal of any solid waste, petroleum, radioactive material, brine, solvents or hazardous material onto land or into a surface water body is prohibited, except for sanitary sewage disposal systems located more than 200 feet from the wellhead of the public water supply well.
 - 2. Commercial use, storage or application of pesticides.
 - 3. Establishment or operation of any solid waste treatment, management or disposal facility or hazardous waste treatment, management or disposal facility.

4. Installation or operation of any petroleum product or chemical storage other than residential home heating oil, kerosene or other fuel not to exceed 550 gallons.
5. Cemetery.
6. Dumping or disposing of snow or ice collected from roads, streets or parking areas within 100 feet of any water body.
7. Bulk storage of chloride salts.
8. Construction of commercial pipelines that carry petroleum or other liquid hazardous material.
9. Mining and blasting.

Section 11.5 Non-Conforming Activities

- A. A lawful activity which exists at the time of the effective date of this chapter that does not conform with the requirements of this section is not subject to the restrictions and requirements of this section.
- B. A non-conforming use or activity shall not be expanded or enlarged without a variance pursuant to the procedures in Article XV.
- C. In the event that a non-conforming activity is stopped, suspended or abandoned for a period of 12 months or longer, the activity shall permanently desist and shall be subject to the requirements of this Article.

ARTICLE XII
PLACEMENT OF MANUFACTURED HOMES,
MANUFACTURED HOME PARK REGULATIONS AND
MAINTENANCE OF MANUFACTURED HOME PARKS

Section 12.1 Manufactured Homes

No manufactured home shall be moved, placed or relocated in the Town of Plattsburgh without first obtaining a permit to park and occupy that manufactured home on a lot as approved by the Zoning Enforcement Officer as being within a district that permits single- and/or multi-section manufactured homes, as applicable. Upon submittal of the application and receipt of the permit, the manufactured home may be moved. The manufactured home may not be occupied until a certificate of occupancy has been granted for that manufactured home.

- A. All manufactured homes not bearing the United States Department of Housing and Urban Development (HUD) seal crest will be subject to a detailed compliance inspection by the Zoning Enforcement Officer. The compliance inspection will ascertain the degree of compliance with energy conservation factors established by HUD standards.
- B. A manufactured home moved within the Town of Plattsburgh, whether from a manufactured home park to a private lot or from a private lot to a manufactured home park, with no transfer of ownership, shall have the right to relocate the manufactured home without the criteria set forth in (A), above. This does not preclude an inspection for certificate of occupancy and the compliance with required health and safety standards.
- C. No manufactured home, wherever placed in the Town of Plattsburgh, will be occupied without first having obtained a certificate of occupancy.
- D. Manufactured homes shall be placed only at authorized locations for refurbishing or sale. Authorized areas will only be designated within Service Center Districts or Industrial Districts.
- E. Each manufactured home shall be skirted to adequately secure the manufactured home against weather conditions, rodents and to further ensure safety. This will be done within thirty (30) days from time of initial hookup.
- F. Fuel containers will be mounted so as not to be visible from the road in front of the manufactured home. All fuel containers will be mounted on an approved metal structure. Liquefied Petroleum Gas bottles will be mounted with consideration to safety. The standards for the Liquefied Petroleum Gas and the fuel containers shall be as provided by the New York State Uniform Fire Prevention and Building Code and the National Fire Protection Agency.

- G. No manufactured home shall be used for any use other than its intended use within the Town of Plattsburgh.

Section 12.2 Manufactured Home Parks

In addition to all other regulations of the Town with respect to manufactured home parks, the following applies:

- A. All manufactured home park requests will utilize the special use permit review procedure.
- B. Construction requirements for manufactured homes within manufactured home parks are as follows:
 - 1. Park-owned buildings shall be constructed in accordance with the applicable New York State Building Construction Codes and the New York State Fire Prevention Code (9 NYCRR) or their successor(s), including the list of generally accepted standards.
 - 2. Any manufactured or mobile home built after January 15, 1974 that does not meet the State Code for Construction and Installation of Mobile Homes (9 NYCRR) shall not be installed in a manufactured home park.
 - 3. Any manufactured or mobile home built after June 15, 1976 that does not meet the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standard (CFR, Title 24, Part 3280) shall not be installed in a manufactured home park.
 - 4. Spacing. Homes and accessory buildings or structures installed after the effective date of this code shall be situated such that a minimum separation distance of ten (10) feet exists to any home, building or structure on any other site or parcel of land.
- C. No more than one (1) manufactured home will be placed on a lot within a manufactured home park.
- D. After the date of amendment of this section, any site established at a new or existing manufactured home park shall be a minimum of 5,000 square feet.
- E. No manufactured home park shall be contiguous nor in such proximity to another manufactured home park so as to cause congestion, hazard, overcrowding of land and an undue concentration of population, which would result in an overuse of public facilities.
- F. A manufactured home park shall have an area of not less than five (5) acres.
- G. In any district where allowed, no manufactured home lot, manufactured home office or manufactured home service building shall be closer to any public road or other property line than fifty (50) feet.

F. Water Supply

1. Drinking water shall be adequate in quantity, of a quality which complies with the requirements of the Health Department, and shall be readily available to occupants of the property. Non-potable water shall not be accessible to park occupants.
2. A minimum water pressure of 20 pounds per square inch shall be provided at the riser pipe of each site at all times.
3. A water service connection consisting of a service box with a shut-off valve installed below the frost line and a three-quarter inch riser pipe shall be supplied on each site. Surface drainage shall be diverted from the connection. The park operator shall be responsible for maintaining the shut-off and riser pipe, except where the responsibility for the riser pipe has been transferred to the mobile home occupant by formal written agreement. Such formal written agreement shall be available for review by the Zoning Enforcement Officer.
4. The riser pipe shall be provided with a watertight seal when not connected to a home.

G. Sewage Facilities

1. All sewage facilities shall be designed, constructed and maintained in accordance with the appropriate standards of the Departments of Health and/or Environmental Conservation.
2. No construction of new or modified facilities shall commence until approval in writing from the agency having jurisdiction has been received by the operator. All construction shall be in accordance with the approved plans.
3. Each site shall be provided with a minimum four-inch sewer pipe below the ground surface and a four-inch riser pipe.
4. The connecting pipe (minimum of three-inch diameter) from the manufactured or mobile home to the riser pipe shall be non-collapsible and semi-rigid. All connections shall be watertight.
5. The riser pipe shall be provided with a watertight seal when not connected to a manufactured or mobile home.
6. Inadequately treated sewage on the ground shall be prohibited.
7. The operator shall be responsible for maintaining the sewage system to include the riser pipe. The connecting pipe shall also be the responsibility of the operator unless the responsibility has been transferred to the manufactured or mobile home occupant by formal written agreement. Such formal written agreement shall be available for review by the Zoning Enforcement Officer.

- H. Distribution systems for electricity, including the manufactured or mobile home service agreement and feeder assembly, gas and fuel oil shall be in accordance with applicable State

and local regulations or generally accepted standards. The operator shall be responsible for maintaining these systems, including the connection top each home, unless such responsibility has been transferred to the manufactured or mobile home occupant by formal written agreement. Such formal agreement shall be available for review by the Zoning Enforcement Officer.

I. Refuse Storage and Disposal

1. Adequate and sanitary facilities shall be provided and maintained for the storage and disposal of refuse. Sanitary methods shall be used for the temporary storage, collection, handling and disposal of refuse. Any on-premise refuse processing, treatment, and disposal facilities shall meet the requirements of the Department of Environmental Conservation.
2. The operator shall provide for refuse pick-up or central refuse storage.
3. If refuse pick-up is not provided, the occupant shall be responsible for transporting refuse to the central refuse storage point.
4. The occupant shall be responsible for the proper maintenance and storage of refuse on each site.

J. Insect and Rodent Control. Grounds and buildings shall be maintained in such a manner as to control noxious insect and rodent infestations. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the agency having jurisdiction.

K. Weed Control. The growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds shall be controlled. Control measures and materials shall conform with the requirements of the agency having jurisdiction. The elimination of such weeds where growth is limited to a single site shall be the responsibility of the occupants.

L. No part of any park shall be used for non-residential purposes, except such uses that are required for direct servicing and the well being of the park, its residents and its management and maintenance.

M. Each manufactured home shall be skirted to adequately secure the manufactured home against weather conditions, rodents and to further ensure safety. This will be done within thirty (30) days from time of initial hookup.

N. The manufactured or mobile home stand shall be improved to provide adequate support for the placement and anchoring of the manufactured or mobile home in accordance with generally accepted standards. The stand shall not heave, shift or settle unevenly under the weight of the manufactured or mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. The stand shall inhibit the ponding of water under and around the home.

- O. Entrance steps shall be installed at all doors leading to the inside of the manufactured home. Such steps shall be constructed of materials intended for permanence, weather resistance and attractiveness. Handrails shall be provided if steps contain three (3) or more risers.
- P. No manufactured home lot within a manufactured home park will have more than one (1) accessory structure. The accessory structure will be at least ten (10) feet from the manufactured home and placed entirely within that manufactured home lot. All accessory buildings will conform to the required setbacks as outlined in Article V. Additions to manufactured homes require a permit. The application will be signed by the manufactured home owner and the owner/manager of the manufactured home park.
- Q. Parking for two (2) automobiles will be provided on each manufactured home lot. There shall be no storage of any automobiles or automobile parts allowed within a manufactured home park. Any automobile parked on a lot shall be a duly registered and inspected vehicle. Further, when a manufactured home park is configured at more than fifteen (15) manufactured homes, there may be a designated parking area for additional vehicles as recommended by the Planning Board during site plan review.
- R. Additions, modifications and changes to existing manufactured home parks will only be changed, modified or extended in conformance with the new manufactured home park standards.
- S. All lots will be numbered and each manufactured home will display the lot number on the side facing the road in compliance with 911 rules.
- T. The owner/manager of the manufactured home park shall maintain a register of all dog owners and dogs within the park. The list shall conform to the standards as stated by the Town of Plattsburgh Dog Control Officer. It should be further noted that all dogs within a manufactured home park shall be leashed. The owner/manager will provide the Town Dog Control Officer with a letter consenting to the Town dog control law enforcement within the park.
- U. USPC approved mailboxes shall be placed in an orderly and aesthetically pleasing fashion, in a place of mutual agreement to the park manager and postal authorities, so as not to block the line of sight of entering or exiting vehicles.
- V. Fuel containers will be mounted so as not to be visible from the road in front of the manufactured home. All fuel containers will be mounted on an approved metal structure. Liquefied Petroleum Gas bottles will be mounted with consideration to safety. The standards for the Liquefied Petroleum Gas and the fuel containers shall be as provided by the New York State Uniform Fire Prevention and Building Code and the National Fire Protection Agency.
- W. The owner/manager of the manufactured home park shall maintain a register of all manufactured homes within the park. This register will include the name of the owner/tenant(s) residing in the manufactured home, the size and make of the manufactured

home, and date of arrival. When the manufactured home is removed the register will reflect the month, day and year of departure from the park. This registry will be available for inspection. There is no need to obtain permits for manufactured homes leaving a park. Permits are mandated on any manufactured home coming into a park.

- X. The park owner/manager is responsible for maintaining the manufactured home park in such a condition as complies with regulations stated herein. This shall include, but not be limited to, hedges, bushes and roads.
- Y. Conditions of roads, ground water and other items for new manufactured home parks or additions to a manufactured home park shall be established at a site plan review.
- Z. Manufactured home parks shall be maintained in a neat, safe and healthy manner as determined by the Zoning Enforcement Officer in accordance with Section 12.3, herein. Thirty (30) days prior to receiving a renewal permit from the Clinton County Health Department, the owner/manager will contact the Town of Plattsburgh's Zoning Enforcement Officer to schedule an inspection. Upon inspection and re-certification by the Clinton County Health Department, a copy of the license will be given to the Town of Plattsburgh.
- AA. Manufactured Home Parks will maintain a central trash pick-up. Trash will be removed on a weekly basis.
- BB. No manufactured home shall be used for any use other than its intended use within the Town of Plattsburgh.
- CC. No part of any park shall be used for non-residential purposes, except such uses that are required for direct servicing and the well being of the park, residences and for the management and maintenance of the park.

Section 12.3 Violations and Penalties

Notwithstanding the provisions of Section 12.8 of this Ordinance, any person or persons who willfully violates any provisions of this Article shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding fifteen (15) days, or both.

Each day after conviction that such violation continues shall constitute a separate offense.

ARTICLE XIII WOOD BOILERS

Section 13.1 Purpose

Although wood boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. The purpose of this Article is to ensure that wood boilers, whether indoor or outdoor, are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

Section 13.2 Permit Required

No person shall cause, allow or maintain the use of an Indoor or Outdoor Wood Boiler within the Town of Plattsburgh without first having obtained a permit from the Town Zoning Enforcement Officer. Application for a permit shall be made to the Zoning Enforcement Officer on the forms provided.

Section 13.3 Specific Requirements

All Indoor or Outdoor Wood Boilers shall be EPA and DEC approved and comply with the following requirements.

- A. Permitted Fuel. Only Firewood and Untreated Lumber are permitted to be burned in any Indoor or Outdoor Wood Boiler. Burning of any and all other materials in an Indoor or Outdoor Wood Boiler is prohibited.
- B. Permitted Districts. Indoor or Outdoor Wood Boilers shall be permitted only in the R-2, R-3 and R-4 zoning districts as shown on the Town Zoning Map.
- C. Minimum Lot Size. Indoor or Outdoor Wood Boilers shall be permitted only on lots of two (2) acres or more.
- D. Setbacks. Indoor or Outdoor Wood Boilers shall be set back not less than 200 feet (200') from the nearest lot line.
- E. Chimney Height. The minimum chimney height shall be twenty (20) feet.
- F. Months of Operation. Indoor or Outdoor Wood Boilers shall be operated only between September 5th and May 31st.
- G. Spark Arrestors. All Indoor or Outdoor Wood Boilers shall be equipped with properly functioning spark arrestors.
- H. Nonconforming:

1. No Indoor or Outdoor Wood Boiler in operation prior to insert date of Local Law Enactment may be extended, enlarged, relocated or restored beyond 75% of its value, unless in conformance with this Local Law.
2. Discontinued use of any Indoor or Outdoor Wood Boiler for more than 11 months, shall not be reestablished unless in conformance with this Article.

Section 13.4 Suspension of Permit

A permit issued pursuant to this Local law may be suspended as the Zoning Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Plattsburgh if any of the following conditions occur:

- A. Emissions from the Indoor or Outdoor Wood Boiler exhibit greater than twenty percent (20%) opacity (six minute average), except for one continuous six-minute period per hour of not more than twenty-seven (27%) opacity, which shall be determined as provided for in 6NYCRR 227-1.3(b);
- B. Malodorous air contaminants from the Indoor or Outdoor Wood Boiler is detectable outside the property of the person on whose land the Indoor or Outdoor Wood Boiler is located;
- C. The emissions from the Indoor or Outdoor Wood Boiler interfere with the reasonable enjoyment of life or property;
- D. The emissions from the Indoor or Outdoor Wood Boilers cause damage to vegetation, property or health;
- E. The emissions from the Indoor or Outdoor Wood Boilers is or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition which resulted in the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this Article subject to the penalties in Article XVI.

Section 13.5 Waivers

Waivers from this Article may only be made by the use variance procedure in Article XV.

Section 13.6 Effect of Other Regulations

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation. And other Federal, State, regional or local agency. Indoor or Outdoor Wood Boilers and any electrical, plumbing or other apparatus or device used in connection with an Indoor or Outdoor Wood Boiler, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local,

federal, State or local ordinances, codes, laws, rules or regulations. In all cases, the more restrictive or stringent provision or requirement shall prevail.

ARTICLE XIV SMALL WIND ENERGY FACILITIES

Section 14.1 Purpose

The conversion of wind into electrical power provides the benefits of being a renewable energy source which can supplement energy usage needs for homes, farms and business owners, as well as allow the sale of excess electrical power into the National Grid. However, wind development also has secondary impacts to the community and adjoining properties such as noise, shadow flicker, impacts to the environment, birds and bats, wetlands, scenic views and negative property values. All of these issues can be debated and argued by consultants swaying either way, but the fact remains the impacts exist. Balancing the benefits and impacts from wind development projects is necessary.

Limiting the size of such facilities, providing setbacks for locations of towers, acknowledging and protecting existing utility poles and lines, roads used by general public and emergency responders, considering scenic views, adjacent properties, existing uses and otherwise provide for proper siting of such development with oversight regulations.

The Town Board of the Town of Plattsburgh has reviewed the benefits and impacts from wind energy development and the benefits of the use of small wind energy facilities as an accessory use to the primary use such as a commercial, industrial, business, residential, or agricultural use. Oversight regulations can balance impacts by small wind energy facilities with the general welfare and safety of the community and adjoining property owners' interests.

This local law is adopted to regulate the placement of small wind energy facilities and provide oversight in permitting small wind energy facilities to preserve and protect the health, safety and general welfare of the inhabitants of the Town from the impacts of such small wind development.

The Town recognizes that wind resources within the Town are sporadic and unpredictable and that the development of a commercial wind farm in the Town will have substantially more significant impact than from small wind energy facilities and not be in harmony with the Town Comprehensive Plan. Regulations pertaining to commercial wind farms cannot easily measure and provide a balance from such impacts free from varying opinions of consultants and consistent with the Town's Comprehensive Plan. Thus, the Town cannot assure its community or adjoining property owners that the character of their neighborhoods will not be adversely changed from such development with oversight regulations or that such development will not otherwise affect the general welfare and safety of neighboring properties, and that adjoining and nearby property values will not be impacted. Therefore, at this time, commercial wind farms within the Town are prohibited.

Section 14.2 Findings

The Town Board of the Town of Plattsburgh finds and declares that:

- A. The Town of Plattsburgh has only limited undeveloped large parcels viable for development of a commercial wind farms. The development of a commercial wind farm would have adverse negative impacts to adjacent property, and restrict the continued and further development in accordance with Town master plan.
- B. Winds to sustain commercial wind farms are sporadic and inconsistent in the Town, thereby limiting the economic feasibility for large commercial wind farms.
- C. Wind energy facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects, and if not properly sited, the impacts will adversely limit the long term development envisioned in the Town Master Plan.
- D. Installation of commercial wind farms with several or more wind energy facilities can create drainage problems through erosion and lack of sediment control for the facility and its access road sites, and harm farmlands through improper construction methods.
- E. Commercial wind farms with wind energy facilities present a risk to bird and bat populations substantially more than small wind energy facilities.
- F. Commercial wind farms present risks to the property values of adjoining property owners and adversely affect the development of adjoining properties limiting and restricting permitted uses thereon.
- G. Commercial wind farms having one or more large wind energy facilities may be significant sources of noise, can create traffic problems and damage local roads, can cause electromagnetic interference issues with various types of communications, can negatively impact adjoining properties and neighborhoods and restrict other residential, retail, commercial, and recreational permitted uses.
- H. The Town finds that impacts in development of commercial wind farms in the Town outweigh the benefits and that such development is not consistent in promoting and protecting the general welfare of the Town's neighborhoods and communities.
- I. Without proper planning and siting, construction of small wind energy facilities may present similar risks. These facilities are not conducive to dense neighborhoods such as Cliff Haven, Champlain Park, trailer parks, and other densely populated areas or densely developed commercial corridors and areas such as Route 3 Corridor, Smithfield Boulevard, and Hammond Lane which form part of the county commercial retail sector with the exception being roof mounted to permitted structures within allowable height restriction of the district or zone and having adequate fall zone.

- J. The placement and development of commercial wind farms in the Town will have adverse impacts on the neighborhoods and adjoining property owners and such impacts substantially outweigh the benefits to the general welfare of the Town's neighborhoods and communities and by reasons thereof their development is not a permitted or allowed use by this local law or by the Town Zoning Ordinance in any district. Further, the Town finds that a commercial wind farm having one or more wind energy facilities shall not be defined or otherwise considered a public utility or otherwise interpreted as permissible for the purpose of this law and or the application of the Town Zoning Ordinance.
- K. Wind energy is a renewable and nonpolluting energy resource and its conversion to electricity with small wind energy facilities can reduce the cost for operating agricultural farming, business, industry and homeowners for which it is accessory and concurrently provide power back into the National Grid, provided the impacts from such facilities can be mitigated and addressed in permitting process.
- L. Regulations for the siting and installation of small wind energy facilities are necessary for the purpose of protecting the health, safety and welfare of neighboring property owners and the general public.

Section 14.3 Procedure

Site plan approval in accordance with the procedures in Article VII of this ordinance shall be required for the placement, construction or operation of any small wind energy facility, except that site plan approval is not required for the placement of a small wind energy facility used wholly for agricultural use and with necessary fall zone on only its property.

Section 14.4 Development Standards

- A. Small wind energy facilities shall comply with the setback requirements of the district in which they are located.
- B. Development Standards. Small wind energy facilities may be allowed in all zoning districts, except as otherwise specifically provided herein, in the Town, however, only as accessory structures providing power to structures on the same lot with excess power net-metered to the public utility system, and subject to the following requirements:
 - 1. The fall zone around any tower constructed as part of a small wind energy facility shall be a circular area around the tower, the center point of which is marked by the center of the base of the tower, with a radius at least equal to the turbine height plus fifty percent (50%) of the turbine height as measured in feet. The fall zone may not include public roads, overhead transmission lines, dwellings or any other human-occupied buildings, and must be located on property owned by the tower owner or for which the owner has obtained an easement or deed restriction that prohibits any such uses within the fall zone area and be so designated. Notwithstanding any tower must comply with applicable Federal Aviation Administration requirements.

2. The maximum hub-height shall be 100 feet.
3. The maximum blade length shall be 20 feet.
4. Turbine height may not exceed the combined length of the hub height and an additional blade length of 20 feet, with blade length measured from the center point of the hub of the turbine to the blade tip.
5. The rotor diameter shall not exceed 40 feet.
6. No blade of any small wind energy facility shall, at its lowest point of its vertical extension be less than 15 feet above the ground.
7. The noise from a small wind energy facility shall not exceed a reading of 5 dBA above the ambient sound level or 55 dBA, whichever is less, measured at any property line abutting a property owned by an entity other than the owner of the property on which the small wind energy facility is located .
8. The number of wind energy towers per lot shall be limited to one (1). There is no limit on the number of roof-mounted small wind energy facilities on nonresidential structures, provided weight limitations are adhered to.
9. Small wind energy facilities are an accessory use and they shall be located on the roof of a building or in a side or rear yard only.
10. The location of a small wind energy facility shall meet all applicable setbacks and buffer requirements of the zone in which it is located, but in no event shall the setback from adjacent property lines, and any principle building be less than the turbine height plus fifty percent (50%) of the turbine height, measured in feet.
11. Co-location of equipment or facilities that are not used for wind power purposes on a wind energy tower is permitted only upon receipt of site plan approval for same from the Town Planning Board.
12. A building permit must be obtained for a small wind energy facility after the site plan approval. It is unlawful for any person to construct, install, or operate a small wind energy facility that is not in compliance with this law or any condition contained in any building permit issued pursuant to this law. Small wind energy facilities installed prior to the adoption of this law are exempt.
13. Site plan approval in accordance with Article VII is required for small wind energy facilities as defined herein. The site plan application shall be submitted along with a long environmental assessment form (EAF) with a visual impact assessment and such other assessments as the Planning Board may determine necessary after review of the EAF. The site plan review shall include a review of the adequacy, location, arrangement, size, design, compliance with fall zone regulations, adequacy of any easement for providing the required fall zone, and general site compatibility of the

proposed small wind energy facilities (safety standards as herein defined), noise, aesthetics and compatibility with adjacent properties and neighborhood uses. The site plan approval shall show and establish the compliance with safety standards as provided herein and conformance with appearance requirements and other provisions of this law.

14. A wind resource assessment for the site of a proposed small wind energy facility is required at the proposed height of the facility and with the surrounding terrain, including tree heights and structure heights identified in the assessment. The assessment shall, also, include an energy prediction using the proposed specific turbine or wind energy equipment to estimate annual energy production and provide an economic analysis that will include the above referenced energy production estimate, installation and maintenance costs, and any NYSERDA incentive and federal tax credits in order to reflect that the proposal is economical and the rate of return on such investment. This analysis may be waived only for good cause shown to the Planning Board.
15. No small wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer owned generator. Off grid systems shall be exempt from this requirement.
16. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy facilities and is otherwise prescribed by applicable laws, regulations and ordinances.

Section 14.5 Safety Standards

A. General Small Wind Energy Facility Standards.

1. The small wind energy facility must meet all applicable New York State Uniform Fire Prevention and Building Code requirements.
2. All wiring connected with the small wind energy facility shall be underground, except for the wiring that runs from the turbine to the base of the facility.
3. The small wind energy facility shall be equipped with an automatic breaking or governing system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.
4. The small wind energy facility shall not interfere with electromagnetic communications such as radio, telephone, television or emergency communication systems.
5. All small wind energy facilities shall be installed by a qualified wind energy installer, and prior to operation, the electrical connections and structural integrity must be inspected by the Town and by the New York Board of Fire Underwriters or other

appropriate electrical and structural inspection person or agency as determined by the Town.

6. The small wind energy facility, if connected to a public utility system for net-metering purposes, shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

B. Roof-Mounted Small Wind Energy Facility Standards.

The following requirements apply to roof-mounted small wind energy facilities only:

1. The rotor diameter of the roof-mounted small wind energy facility may not exceed 7 feet.
2. Roof-mounted small wind energy facility hub height shall not exceed 10 feet as measured from the base of the tower (the location at which the tower and the exterior layer of the structure meet).
3. The lowest vertical extension of any blade or other moving component of a roof-mounted small wind energy facility shall be at least 15 feet above the ground (at grade level) and in addition at least 15 feet above any outdoor surfaces intended for human occupancy, such as balconies or roof gardens, that are located directly below the facility.
4. If more than one roof-mounted small wind energy facility is installed, a distance equal to the length of the turbine height plus 15 feet of the tallest roof-mounted small wind energy facility must be maintained between the bases of each roof-mounted small wind energy facility.
5. A letter or certificate bearing the signature of a certified New York State professional engineer must be submitted to the Zoning Enforcement Officer, indicating that the existing structure onto which the roof-mounted small wind energy facility will be attached is capable of withstanding the additional load, force, torque, and vibration imposed by the roof-mounted small wind energy facilities for the foreseeable future; will comply with seismic and structure provisions set out in state and national building codes; all related components have been designed in accordance with generally accepted good engineering practices and in accordance with generally accepted industry standards; and if constructed in accordance with the plans the, entire facility, including the building onto which the wind energy facility will be attached, will be safe, will be in accordance with all applicable governmental building codes, laws, and regulations, and in accordance with generally accepted good engineering practices and industry standards, including without limitation, acceptable standards for stability, wind and ice loads.

6. The total height of a roof-mounted small wind energy facility and the structure it is mounted on shall not exceed the height limitations for a structure in the district in which it is located.

Section 14.6 Appearance

- A. No small wind energy facilities shall be used for signage, promotional or advertising purposes, including but not limited to company names, phone numbers, banners, streamers, and balloons. Reasonable identification of the manufacturer or owner of the small wind energy facility is permitted.
- B. All small wind energy facilities shall be painted with a non-obtrusive color. The turbine blades may be painted black.
- C. No small wind energy facility shall be artificially lighted except to the extent required by the Federal Aviation Administration or other applicable authority.

Section 14.7 Removal

If a small wind energy facility ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the tower, rotor, guy wires, and associated equipment and facilities by no later than 90 days after the end of the twelve months.

Section 14.8 Administration

The Town Planning Board shall administer the permitting for small wind energy facilities as promulgated by this local law and issue conditional operating permits for same under the site plan review process in Article VII. The operating permits shall be issued by the Zoning Enforcement Officer only upon application for the same showing compliance with the provision of this law, including but not limited to development and safety standards herein provided, together with a site plan. The Zoning Enforcement Officer shall enforce the law, issue order to abate any violations, issue citation for any violation and may refer any violation to the Town Attorney for enforcement.

ARTICLE XV ZONING BOARD OF APPEALS

Section 15.1 Creation, Appointment and Organization

A Zoning Board of Appeals of five (5) members is hereby established in accordance with the provisions of Section 267 of the Town Law. The appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a term of five years. Members now holding office for terms, which do not expire at the end of a year shall, upon expiration of their term, hold office until the end of the year and their successors shall then be appointed for five years.

Section 15.2 Amendments to New York State Town Law Section 267

Amendments of New York State Town Law Sections 267, 267-a, 267-b, and 267-c shall supersede the applicable provisions of this Article as this Article is intended to reflect New York State Town Law Sections 267, 267-a, 267-b, and 267-c.

Section 15.3 Powers and Duties

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and this Ordinance which are specified as follows:

A. Rules of Procedure

The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, bylaws and forms as may be provided for in Section 267 of the Town Law, for the proper execution of its duties. Such rules, bylaws and forms shall not be in conflict with, or have the effect of waiving, any provisions of this Ordinance or any other ordinance or law of the Town of Plattsburgh. The Zoning Board may refer applications to the Planning Board for an advisory opinion. Such advisory opinions shall be rendered within 45 days of referral unless extended by mutual consent. The Planning Board may consult with Town Planning staff, the Town attorney or other experts when making its deliberations.

B. Interpretation

The Zoning Board of Appeals shall have the power to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Enforcement Officer involving the interpretation of any provision of this Ordinance or on request by an administrative official, board or agency of the Town, to decide any of the following questions:

1. Determination of the meaning of any portion of the text of this Ordinance or of any conditions or requirements specified or made under the provisions of this Ordinance; or
 2. Determination of the exact location of any district boundary shown on the Zoning Map.
- C. Use Variances The Zoning Board of Appeals, on appeal from a decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances. No use variance shall be granted without a showing by the Applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the Applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the land use regulations for a particular district where the property is located:
1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 4. The alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Area Variances

The Zoning Board of Appeals, on appeal from a decision or determination of the Zoning Enforcement Officer, shall have the power to grant area variances.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the Applicant can be achieved by some method; feasible for the Applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting the area variance, shall grant the minimum variance that it shall deem necessary and adequate at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Section 15.4 Imposition of Conditions

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

Section 15.5 Procedures

A. Meetings and Voting Requirements

Meetings shall be held at the call of the Chairman or at such other times as the Zoning Board of Appeals may determine. A quorum shall consist of three (3) members. In order to reverse a decision of the Zoning Enforcement Officer or to authorize a variance, an affirmative vote of at least three (3) members shall be required. A vote of a majority plus one of all members shall be required if the action taken by the Zoning Board of Appeals is contrary to an advisory recommendation received from the Clinton County Planning Board under the provisions of Section 239m of the General Municipal Law. The Board shall keep accurate minutes of its proceedings, documenting fully all findings and showing the vote of each member upon each question. All meetings of the Zoning Board of Appeals shall be open to the public.

B. Appeals

1. All appeals shall be filed within sixty (60) days of the action appealed from and shall be accompanied by a fee. Fees shall be determined from time to time by the Town Board and posted in the Town Hall. Every appeal or request shall refer to the specific provision of this Ordinance that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted.
2. All appeals and requests made to the Board shall be in writing, on forms prescribed by the Board and furnished by the Zoning Enforcement Officer.

3. The Zoning Board of Appeals has the right to waive any of the aforementioned application requirements, which it feels are inapplicable.

C. Public Notice and Hearing

The Board shall fix a reasonable time and place for a public hearing on any such appeal or request of which hearing date the Applicant shall be given notice and at which hearing s/he shall appear in person or by agent. Additionally, notice shall be provided as follows:

1. By publishing at least five (5) calendar days prior to the date thereof a legal notice in a newspaper with a general circulation in the Town.
2. By providing notice of the public hearing and data regarding the substance of the appeal to the owners of all property abutting that *land* held by the Applicant and, at the discretion of the Zoning Board of Appeals, all other owners within five hundred (500) feet, or such additional distances that the Board of Appeals may deem advisable, of the land involved in such appeal. Notice shall be mailed at least five (5) calendar days prior to the hearing. The names of owners notified shall be taken from the last completed tax roll of the Town.
3. If the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit, at least five (5) calendar days prior to the public hearing, to the Municipal Clerk of such other municipality or municipalities, a copy of the notice of the substance of the appeal, together with a copy of the official notice of such public hearing.

D. Required Referral

A full statement of any appeal that meets the referral requirements of Section 239m of the General Municipal Law shall also be referred not less than five (5) days prior to the public meeting of the Clinton County Planning Board. No action shall be taken by the Zoning Board of Appeals on such appeal until an advisory recommendation has been received from said Board or thirty (30) calendar days have elapsed since the Board received such full statement.

E. Decisions

Every decision of the Zoning Board of Appeals on an appeal or request shall be made within sixty-two (62) days of the close of the hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board, shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the Office of the Town Clerk within five (5) business days thereof. The Board shall also notify the Zoning Enforcement Officer, the Secretary of the Planning Board and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on

the action taken shall also be filed within seven (7) calendar days of said action with the Clinton County Planning Board.

F. Attachment of Conditions

In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Ordinance, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this Ordinance.

G. Effect of Appeal

Unless the Zoning Enforcement Officer finds there to be an imminent peril to, either life or property, an appeal stops all work related to the action which is the subject of the appeal, by either the Town or Applicant.

H. Expiration of Approval

Unless construction or use is commenced and diligently pursued within one (1) year from the date of the granting of a variance, such variance shall become null and void without further hearing by the Zoning Board of Appeals.

I. Discontinued Use

When a use granted by variance has been discontinued or abandoned for a period of not less than one (1) year, it shall not thereafter be reestablished and the future use shall be in conformity with the provisions of this Ordinance.

J. Compliance with State Environmental Quality Review Act

Proposed projects are actions subject to the provisions of SEQRA. Prior to rendering its decision, the Zoning Board of Appeals shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

K. Appeals

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals, may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78 except that the action must be initiated as therein provided within thirty (30) days after the filing of the Board's decision in the Office of the Town Clerk.

L. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the

Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination, will not be prejudiced thereby.

ARTICLE XVI ADMINISTRATION AND ENFORCEMENT

Section 16.1 Enforcement

This ordinance shall be enforced by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall administer this chapter in the first instance so that all land use applications must start with the Zoning Enforcement Officer. Land use applications may then be forwarded to the Town Board, the Planning Board or the Zoning Board of Appeals depending on the appropriate jurisdiction over such applications pursuant to this chapter. Compliance with this chapter and all permits, approvals and decisions that are rendered under this chapter shall be enforced by the Zoning Enforcement Officer. Specifically, the Zoning Enforcement Officer shall have the following powers and duties.

- A. Initial review and processing of all applications submitted under this chapter.
- B. Issue building permits, certificates of occupancy, temporary certificates of occupancy and certificates of compliance.
- C. Enforce the conditions of any variance, site plan review or special use permit.
- D. Enforce the specific provisions of this chapter.

Section 16.2 Permits

- A. Issuance

No building, structure or land use activity, as defined in this Ordinance, shall be commenced, extended or structurally altered except pursuant to a permit issued by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall in no case, except under written order of the Zoning Board of Appeals, grant any permit for any building, structure, or land use activity where the proposed construction, alteration or use thereof would be in violation of any provision of this Ordinance.

- B. Fee

The fee to be charged for site plan review, special use permit, Planned development District and for the issuance of a permit for both residential and non-residential construction shall be as set forth by the Town Board from time to time after a public hearing thereon and amendments thereto held at least ten (10) days after due publication of the notice of the time and place of such respective hearing.

C. Expiration

A permit shall become void after a period of six (6) months from the date of issuance unless construction has been started pursuant to the issue of such permit. Permits become active from the date of issuance and are valid for a period of twelve (12) months. In the event that the project is not completed in that given time the permit shall become void after a period of twelve (12) months. A renewal may be applied for. Renewal permits are valid for a twelve (12) month period and fees will be as established in the initial permit.

D. Requirements

All applicants for permits shall submit two (2) copies of a layout or plot plan drawn to scale and with all dimensions shown, showing the exact size and location on the lot of the proposed building, accessory buildings, structures, and/or land use activities and the intended use of the building.

Section 16.3 Inspection of Improvements

The Zoning Enforcement Officer shall have the right to enter upon, examine and inspect or cause to be entered, examined and inspected, any building or property at any reasonable time for the purpose of carrying out his/her duties and to determine compliance with the provisions of this Ordinance. A written report of such examination and inspection shall be prepared on an appropriate form and kept on file by the Zoning Enforcement Officer.

Section 16.4 Certificates of Occupancy

No building, structure or portion thereof hereafter erected, altered or extended, and no land, the use of which is hereafter changed, shall be used until a certificate of occupancy has been issued by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall in no case, except under a written order of the jurisdictional entity, grant any certificate of occupancy or temporary certificate of occupancy where the use of any building, structure or land would be in violation of the terms and provisions of this Ordinance.

Section 16.5 Temporary Permits for Non-Compliance

If it has been adequately demonstrated to the Zoning Enforcement Officer that compliance with the terms of this Ordinance cannot be effectively and immediately made, the Zoning Enforcement Officer shall have the authority to grant a temporary permit for the continuance of such non-compliance, but only in the event that the party has taken all necessary steps to secure compliance with this Ordinance. Such temporary permit shall be issued for no longer than three (3) months at the expiration of which period of time the party holding such permit shall be deemed to be in violation of the provisions of this Ordinance. Any violations or offenses on separate days shall be deemed to be separate offenses for the purposes of this Ordinance, and thus subject to separate penalties and fines.

Section 16.6 Issuance of Notices of Violation

Whenever, in the opinion of the Zoning Enforcement Officer, after proper examination and inspection, there appears to exist a violation of any provision of this Ordinance, or of any rule or regulation adopted pursuant thereto, s/he shall on his/her own initiative serve a written notice upon the person responsible for such alleged violation. Such notice shall inform the recipient of the following:

- A. The nature and specific details of such violation;
- B. The date of compliance by which the violation must be remedied or removed, which period shall not exceed twenty (20) days from the date of notice;

If the person served fails to comply within the prescribed period of time, the Zoning Enforcement Officer shall issue an appearance ticket stating date and time to appear before the Town Justice, notify the person, and bring the matter to the attention of the Town Justice. The Town Justice shall take the action deemed appropriate.

Section 16.7 Issuance of Stop Work Orders

Whenever the Zoning Enforcement Officer has grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this Ordinance, not in conformity with any application made, permit granted or other approval issued hereunder, or, in an unsafe or dangerous manner, the Zoning Enforcement Officer shall promptly notify the responsible person to suspend work on any such building or structure or the use of any such land. Such persons shall forthwith suspend such activity until such time that the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and shall be served upon the person to whom it is directed either by delivering it personally to him/her or by posting the order and notice upon a conspicuous portion of the building under construction or premises in use and by sending a copy by certified mail.

Section 16.8 Penalties

Violation of any provision or requirement of this Ordinance or violation of any statement, plan, application, permit or certificate approved under the provision of this Ordinance shall be considered an offense.

- A. Conviction of a first offense is punishable by a fine of not more than three hundred fifty dollars (\$350) and/or imprisonment for not more than six (6) months.
- B. Conviction of a second offense, when both offenses are within a five (5) year period, is punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) and/or imprisonment for not more than six (6) months.
- C. Conviction of a third or subsequent offense, when all offenses are committed within a five (5) year period, is punishable by a fine of not less than seven hundred dollars (\$700) nor

more than one thousand dollars (\$1,000) and/or imprisonment for not more than six (6) months.

For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Ordinance 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 offense.

In addition to other remedies, the Town may institute any appropriate action or proceeding to prevent any unlawful erection, alteration, conversion, maintenance or use, to correct or abate such violation, to prevent the occupancy of a building, a structure or land, or to prevent any illegal act, conduct, business or use.

ARTICLE XVII AMENDMENTS

Section 17.1 Authority

This Ordinance, or any part thereof, including the Zoning Map indicating the various district boundaries, may from time to time be amended or repealed by the Town Board in the manner provided by Sections 264 and 265 of the New York State Town Law and this Article.

Section 17.2 Initiation

An amendment to this Ordinance may be initiated in any one of four (4) ways:

- A. By the Town Board upon its own motion;
- B. By resolution of the Planning Board, filed with the Town Clerk, wherein certain changes to or repeal of specific provisions of this Ordinance are recommended, in which case the Town Board shall, by resolution, determine either to schedule a public hearing on the proposed amendment or terminate consideration of the proposed amendment within ninety (90) days of the time such resolution is filed by the Planning Board with the Town Clerk.
- C. By petition duly signed and acknowledged from the owners of fifty (50) percent or more of the frontage in any district or part thereof requesting an amendment in the regulations prescribed for such district or part thereof, in which case the Town Board shall, by resolution, determine either to schedule a public hearing on the proposed amendment or terminate consideration of the proposed amendment within ninety (90) days of the time such petition is filed by the petitioners with the Town Clerk. Said petition shall be accompanied by a fee, said fee to be determined from time to time by the Town Board.
- D. By a committee appointed by the Town Board for the purpose of amending this Ordinance.

Section 17.3 Report of the Planning Board

All proposed amendments originating by petition or by motion shall be referred to the Planning Board for a report and recommendation thereon. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the items specified below:

- A. Whether such amendment is consistent with the purposes embodied in this Ordinance as applied to the particular districts concerned;
- B. Which area and establishments in the Town will be directly affected by such amendment and in what way will they be affected;
- C. Whether adequate public services and other support facilities exist or can be created to serve the needs of any additional development that may occur as result of such amendment;

- D. The indirect implications of such amendment in its effect on other regulations;
- E. Whether such proposed amendment is consistent with the underlying objectives of the Town Master Plan.

The Planning Board shall submit its report to the Town Board within forty-five (45) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be a recommendation of approval of the proposed amendment.

Section 17.4 Town Board Procedure

A. Public Notice of Hearing

1. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:
 - a. At least ten (10) days prior to the date of such public hearing, a notice of the time and place of such hearing shall appear in a newspaper of general circulation in the Town. Such notice shall describe the area, boundaries, regulations or requirements that such proposed amendment involves.
 - b. Notice of any proposed amendment affecting property within five hundred (500) feet of any other municipality, state park or parkway shall be provided to the clerk of the municipality(ies) or commissioner, respectively, at least ten (10) calendar days prior to the date of such public hearing.
 - c. Written notice of such proposed amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law shall be given to the executive director of the housing authority and the chief executive officer of the municipality providing financial assistance thereto at least ten (10) calendar days prior to the date of such hearing.

B. Required Referral

If applicable, the Town Board shall transmit a full statement of any proposed amendment, either map or text that meets the referral requirements of Section 239m of the General Municipal Law to the Clinton County Planning Board for its review and recommendation.

Section 17.5 Compliance with State Environmental Quality Review Act

Proposed amendments actions are subject to the provisions of SEQRA. Prior to rendering its decision, the Town Board shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

Section 17.6 Town Board Action

The Town Board may approve any such proposed amendment by a majority vote of said Board, except that a favorable vote of at least four (4) members of the Town Board, i.e., a majority plus one (1) shall be required if:

- A. Action being taken is contrary to the advisory recommendation received from the Town Planning Board or from the County Planning Board under the provisions of Section 239m of the General Municipal Law;
- B. In accordance with the provisions of Section 265 of New York State Town Law, a protest petition against such amendment has been duly signed by the owners of at least twenty (20) percent of the land area included in such proposed change or of that immediately adjacent extending one hundred (100) feet therefrom or that directly opposite.

Section 17.7 Conformance with Town Master Plan

In all cases where the Town Board shall approve an amendment to this Ordinance, said Board shall find, for reasons fully set in its resolution, such amendment to be in conformance with the Town Master Plan.

Section 17.8 Effective Date of Amendment

The effective date of any amendment shall be ten days after the publication of the amendment in accordance with Section 265 of Town Law in the Town's newspaper of record.

ARTICLE XVIII MISCELLANEOUS

Section 18.1 Construal of Provisions

Interpretation and application of the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions or those imposing the higher standards shall govern.

Section 18.2 Relationship of This Ordinance to Other Laws and Regulations

This Ordinance in no way affects the provisions or requirements of any other federal, state, or local law or regulations. The provisions of this Ordinance are in addition to, and not in place of, any other federal, state or local law or regulation. Where the provisions of this law conflict with other laws or regulations, the more restrictive shall apply.

Section 18.3 Repealer

The following laws are hereby repealed: Local Law No. 3 of the Year 1999 – Commercial Parking; Local Law No.1 of the Year 2009 – Regulating Outdoor Wood Boilers; and Local Law No. 2 of the Year 2011 – Small Wind Energy Facilities.

Section 18.3 Existing Violations

No site plan or special use permit shall be approved, no permit or certificate of occupancy issued or variance granted under this Ordinance for premises upon which there is an existing violation of this Ordinance or any related Town regulation governing either building construction or the use of land and structures within the Town of Plattsburgh. This limitation, does not, however, prohibit such approval, issuance or grant with respect to a legal nonconforming use or structure.

Section 18.4 Severability

Should any section or provision of this Ordinance be directed by the courts to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the section or provision so declared to be unconstitutional or invalid.

Section 18.5 When Effective

This Ordinance shall take effect ten (10) days after publication in accordance with Section 265 of Town Law in the Town's official newspaper.