

**TOWN OF
TICONDEROGA
ZONING LAW**

**Adopted December 30, 2019, as Local Law 2 of 2019
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With amendments noted below and referenced throughout

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ARTICLE I

Short Title, Purposes, and Jurisdiction

1.10 Short Title

This ordinance is known and cited as the "Town of Ticonderoga Zoning Ordinance."

1.20 General Intent

The intent of this ordinance is to establish comprehensive controls for the development of the land in the Town of Ticonderoga based on a Development Plan for the Town enacted in order to promote and protect health, safety, comfort, convenience and the general welfare of the people.

1.30 Purposes

Such regulations shall be made in accordance with a Development Plan and designed to promote the health, safety, morals and the general welfare of the Town of Ticonderoga, and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to avoid undue concentration of population, to facilitate adequate provisions for transportation, water, sewage, schools, parks, and other requirements under and pursuant to Article 16 of Chapter 62 of the Town Law of the State of New York, and the number of stories and size of buildings, signs and other structures, the percentage of the lot that may be occupied, the size of the yards and other open spaces, the density of population, and the use of the buildings, structures and land for trade, resort, residence, or other purposes are hereby restricted and regulated as hereinafter provided.

1.40 Area of Jurisdiction

This ordinance regulates and restricts, as set forth above, the use of land throughout the entire area of the Town of Ticonderoga.

ARTICLE II

Definitions

2.10 Interpretations

Unless the context otherwise requires, the following definitions shall be used in interpretations and construction of the Ordinance. Words used in the singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used"; and the word "shall" is mandatory and not optional.

2.20 Definitions

1. Accessory structure: A detached building which is of secondary importance to the principal structure of the parcel, and which is not used for human occupancy.
2. Adirondack Park Agency (or Agency): The Adirondack Park Agency created by section 803 of Article 27 of the Executive law of the State of New York.
3. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled

still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified adult activities or specified anatomical areas.

4. Adult Book Store or Adult Video Store: A commercial establishment which offers for sale or rental for any form of consideration any one or more of the following:
 - a. (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified adult activities.
 - b. Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified adult activities
5. Adult Cabaret: A nightclub, bar, restaurant or similar commercial establishment which regularly features:
 - a. Persons who appear in a state of nudity; or
 - b. Live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities; or
 - c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas.
6. Adult Entertainment Business: A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult arcade; adult cabarets; adult motels; adult motion-picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customary exclude persons seventeen years of age and younger.
7. Adult Motel: A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.
8. Adult Motion-Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified adult activities or specified anatomical areas.
9. Adult Theater: A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities.
10. Agriculture: Use of land for raising cows, horses, pigs, and other livestock, growing of products on land, and horticulture of orchards. Amended April 12, 2001

11. **Agricultural use:** Any management of any land for agriculture; raising of cows, pigs, horses, poultry and other livestock, horticulture or orchards, including the sale of products grown or raised directly on such land, and, including the construction, alteration maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.
12. **Agricultural Service use:** Any storage or processing facility directly and customarily related to an agricultural use.
13. **Agricultural use Structure:** Any barn, stable, shed, silo, garage, fruit and vegetable stand, or other building or structure directly and customarily associated with agricultural use.
14. **Airport:** A building and associated landing areas for aircraft which is owned by a governmental entity.
15. **Alterations:** As applied to a building or structure, 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
16. **Amusement Center:** An indoor or outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides and booths for the conduct of games and buildings for shows and entertainment. This includes amusement uses, such as but not limited to miniature golf, go-karts (riding areas for dirt bikes, ATVs or snowmobiles), skating facilities, arcades and batting cages.
17. **Area, Building:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings to the exterior of the walls thereof, exclusive of uncovered porches, terraces and steps.
18. **Area, Land:** The total area within the property lines, excluding streets and highways.
19. **Automotive Sales and Service:** Any area of land, including structures thereon, that is used for the retail sale of motor vehicles and accessories which may or may not include auto body/repair shop services.
20. **Bank:** An institution which deals in money and credit, and in which money and/or other valuables may be deposited for safekeeping.
21. **Bed-and-Breakfast.** A use, located within a one- or two-family dwelling, in which six or fewer guest rooms are rented on a nightly basis for periods of less than a week and where at least one meal is offered in conjunction with each guest night. Offstreet parking must be provided for each room.
22. **Boat Storage Facility:** A place or site outside of the Lake George Park used to park or store, on any one lot, three or more vessels, except canoes, rowboats or sailboats under 18 feet. The definition excludes the commercial sale, maintenance or repair of boats.
23. **Building:** Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or other property.
24. **Building height:** The vertical distance measured from the average elevation of the current grade or proposed finished grade at the front of the building to the highest point of the building or structure, whichever results at the highest measurement, exclusive of church spires, cupolas, chimneys, ventilators, cooling towers, mechanical equipment or similar features customarily carried above the roof line.

25. **Building, Principal:** A building in which is conducted the main or principle use of the lot on which said building is situated.
26. **Business Service:** Services rendered to a business establishment or individual on a fee or contract basis, including actuarial, advertising, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, window cleaning, blue-printing and photocopying, and other such services.
27. **Campground:** Any area designated for transient occupancy by camping in tents, camps trailer, travel trailers, motor homes or similar facilities.
28. **Cemetery:** A burial place or ground operated and maintained by a church, private entity or a governmental agency, which can include a crematorium and aboveground storage vaults.
29. **Certificate of Occupancy:** A written certificate indicating that following examination, the building, dwelling unit, mobile home park, or travel trailer park and the lot or site upon which the same is to be placed, is approved as complying with all provision of this law.
30. **Club, Membership:** An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities, except as required for the membership and purposes of such club.
31. **Class A Regional Project:** A land use or development which is classified and defined in Section 810 of the Adirondack Park Act.
32. **Class B Regional Project:** A land use or development which is classified and defined in Section 810 of the Adirondack Park Act.
33. **Clearcutting:** Any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle.
34. **Commercial:** Any use involving the sale, rental, or distribution of good or services, either retail or wholesale.
35. **Conservation:** The protection or management of open land in a natural state. The definition may include management practices such as supplementary clearing and replanting, stream channel maintenance, and erosion control.
36. **Coverage, Lot:** That percentage of the plot or lot area covered by the building area.
37. **Development:** Any activity which materially affects the existing condition of land or improvements, including but not limited to
 - a. Excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water,
 - b. Construction, reconstruction, alteration, or demolition of any improvements,
 - c. Dumping or storing any objects or materials whether mobile, liquid, or solid,
 - d. Starting any use of the land, or improvements, and every change in land use type or intensity.
 - e. Starting any noise, light, smoke or other emission and every change in its type or intensity.
38. **Directional Signs:** Off-site signs for the sole purpose of indicating directions to business and other establishments within the Town.

39. Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation
40. Dwelling, Single Family: A building, not including a mobile home, of one or more stories of height above the main grade level, which is designed or used exclusively as the living quarters for one family, whether seasonal or year-round.
41. Dwelling, Multiple: Any structure designed or used as a residence for two or more families.
42. Duplex: A detached building containing two dwelling units that are attached by a common wall.
43. Dude Ranch: A commercial establishment where housing and dining on the premises are provided on the same property or group of adjoining properties and which includes a Public Stable thereon.
44. Enforcement Officer: An individual designated by the Town Board to represent them in matter pertaining to this local law.
45. Escort: A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration but without a license granted by the State of New York, agrees or offers to provide a massage for another person.
46. Escort Agency: A person or business association who furnishes or offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
47. Family: One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.
48. Flush- Mounted Solar Panel: Photovoltaic panels and tiles that are installed flush to a surface and which cannot be angled or raised.
49. Forestry use: Any management, including logging of a forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.
50. Food Processing Plant: A building where consumable ingredients are combined, rendered or manufactured for human or animal consumption.
51. Freestanding or Ground-Mounted Solar Energy System: A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure.
52. Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, but not including facilities for cremation.
53. Garage, Private: an accessory building or structure to a residential use, attached or detached, used primarily for storage of personal vehicles and not to be used for any commercial purpose.
54. Golf Course: A tract of land for playing golf, improved with tees, greens, fairways, hazards, and may include clubhouses, shelters, bathroom, restaurant and tavern

- facilities and includes a driving range as incidental to such golf course.
55. Group Camp: Any land or facility for housing and recreational, educational or business-related uses by private groups or semipublic groups, such as boy scout or girl scout camps.
 56. Heavy Industry: A manufacturing facility that is not a light industry.
 57. Home Occupation: An accessory use of a commercial or professional character customarily conducted within the dwelling by the residents thereof. It must be clearly secondary to the primary residential use and must not change the character of the area from residential. Example include professional offices, homemade product sales, and minor franchise sales.
 58. Hunting and Fishing Cabin: A cabin, camp or lean-to or other similar structure designed for occasional occupancy for hunting, fishing or similar purposes.
 59. Industrial Park: A parcel of land developed by the construction of roads and utilities as a site for the location for two or more facilities for light industry.
 60. Junkyard: Any open lot or area for the dismantling, storage or sake, as parts, scrap or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded material.
 61. Kennel: An establishment to house dogs, cats, and other household pets where grooming, breeding, boarding, training or selling of animals is conducted as a business. The occasional sale of puppies, kittens or other offspring from household pets shall not be considered a kennel.
 62. Land use area: Those areas delineated on the official Adirondack Park and Development plan map adopted under Article 27 of the Executive law of the State of New York and designated thereon as "Hamlet," "Moderate Intensity Use," "Low Intensity Use," "Rural Use," "Resource Management," and "Industrial use," and such portions of those area as are located within the town and delineated on the Adirondack park Land Use and Development Plan Map.
 63. Light industry: A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location. This term does not include mineral extractions, Sand, Gravel and Topsoil extraction, sawmills, chipping mills, pallet mills and similar wood using facilities, or paper mill.
 64. Line, Lot: Any line dividing one lot from another.
 65. Line, Street: The dividing line between the street and the lot.
 66. Loading Space, Off-Street: One loading space for merchandise or freight shall constitute an area not less than twelve feet in width and thirty feet in length, with a vertical clearance of fourteen feet or more.
 67. Lodge: A building used to house a social, fraternal or service organization or group not organized or conducted for profit and which is not adjunct to or operated by or in conjunction with a public tavern, cafe, or other place of business. A lodge shall not have associated with it any vending stands, merchandising or commercial activities except as required for the membership and purposes of such club. This definition includes the terms "club," "fraternal lodge(s)," "fraternity house" and "sorority house.
 68. Lot: A parcel of land occupied or capable of being occupied by structure(s).
 69. Lot, Corner: A parcel of land at the junction of and fronting on two or more

intersecting streets.

70. Lot Coverage: That percentage of a lot covered by the building area.
71. Lot Coverage: That percentage of a lot covered by the building area.
72. Lot, Through: An interior lot having frontage on two parallel or approximately parallel streets.
73. Major Public Utility Use: Any electric power transmission or distribution line and associated equipment of a rating of more than fifteen kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to service a new residential subdivision; any television, cable television, radio, telephone, or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission gas, oil, or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits designed to service fifty or more principal buildings.
74. Marina: A facility that provides services or berthing places for vessels, sale of marine products, sale, lease or rental of vessels, boat launch, quick-launch, not including the personal use of docks owned by the owner of the property to which all vessels shall be registered.
75. Medical Facility: Any facility for providing emergency, overnight, or long-term medical or nursing care. It shall not be deemed to include a doctor's professional office.
76. Mini Storage Facility: A structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on an individual basis, each of which may be directly accessed from the exterior of the building via its own access door, and excluding an interior storage facility.
77. Mobile Home: A movable single dwelling unit equipped with a chassis designed for and providing housekeeping facilities for year-round occupancy including plumbing, heating, electrical, cooking and refrigeration systems and equipment.
78. Mobile home Park: Any plot of ground which has been planned or improved for placement of mobile homes for non-transient use and upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a change is made for such accommodations.
79. Motel: A facility offering transient lodging accommodations for a daily rate to the general public in which no provision is made for cooking in any individual room or suite, except that such facilities may be provided in facilities designated as "housekeeping units," "housekeeping cabins," or other similar terminology. A motel may provide additional services such as restaurants, conference and recreational facilities. Motels may include outdoor athletic courts and facilities and swimming pools. The definition includes the terms "hotel," "inn" and a "bed-and-breakfast" with more than 10 rooms but does not include an Adult Motel.
80. Motor Vehicle Service Station: A lot occupied or used for the sale of oil or other motor fuel, lubricant, tire and accessories for motor vehicles, including facilities for greasing, waxing, cleaning, polishing or otherwise servicing

- vehicles, but no including painting or major repairing thereof.
81. Nursing Home: Any building other than a hospital where person are housed or lodged and furnished with meals and nursing care for hire.
 82. Nonconforming Structure: Any structure which is in existence within the town on the effective date of this law which is not in conformance with the dimensional regulations, as list in Article VI herein.
 83. Nude Motel Studio: Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.
 84. Nudity or State of Nudity: The appearance of specified anatomical areas.
 85. Nursery: Land or greenhouses used to raise flowers, shrubs and plants for sale or transplanting as well as other goods customarily sold with plants such as soil, compost, pots, etc. A nursery may include a greenhouse.
 86. Off-Street Loading Space: An area not less than twelve (12) feet wide by thirty (30) feet long and fifteen (15) high.
 87. Off-Street parking and loading area: Any space, lot, parcel or yard used in whole or in part for storing or parking six or more motor vehicles. For the purpose of these regulations, one parking space shall constitute an area of 200 square feet (10' x 20').
 88. Open Space Recreation Use: Any recreation use particularly oriented to and utilizing the outdoor character of an area; including a snowmobile, trail bike, jeep or all-terrain vehicle trailer, horse trail; playground, picnic area, public park, public beach or similar use.
 89. Open Space: An unoccupied space on the same lot with a structure.
 90. Owner: Includes a lessee or occupant in control of property.
 91. Parking Area: Any off-street area used for parking one or more motor vehicles
 92. Parking Space: For the purpose of this regulations, one parking space shall constitute an area of 200 square feet (10' x 20").
 93. Permit: Written authorization issued by the enforcement officer for the establishment of any land use of structure.
 94. Person: Any individual, corporation, partnership, association, trustee, or other legal non-governmental entity.
 95. Personal Service Business: Establishments primarily engaged in providing services involving the care of a person or his or her apparel.
 96. Photovoltaic (PV) System: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity when light strikes them.
 97. Private Swimming Pool: A structure, either permanent or temporary, designed for the purpose of wading or swimming and holding more than 100 gallons of water and used solely incidental to the single family dwelling on the same lot.
 98. Private School: Any education facility that is not a School as defined above.
 99. Place of Worship: A building or place used for religious activities, including a church, synagogue, temple or mosque which is used for the purpose of worship and

- activities customarily associated therewith. Such place of worship shall be maintained and owned by a bona fide religious organization.
100. Professional Office: A business use where professional services are rendered. May include, but shall not be limited to lawyers, doctors, dentists, insurance, consultants, Accountants. May be a Home occupation if the conditions in Section 5.70 are met.
 101. Public or Semipublic Building: Any structure associated with a library, museum, firehouse, EMS, or a municipal building.
 102. Public notice: Notice of a scheduled public hearing published in the official town newspaper once at least five days prior to the date of such hearing.
 103. Public Utility Use: Any public utility use, equipment or structure which is not a major public utility use. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article VII or VIII of the Public Service Law.
 104. Recreational Facilities, Commercial: Recreational facilities open to the public for private gain.
 105. Recreational Facilities, Private: Recreational facilities supplemental to a principal use, for the utilization by proprietors and guests, and excluding any use which is open to the public for a charge.
 106. Restaurant: A business use where the primary income is from the preparation, sale, and consumption of food and beverages, and including what may be described as a "bar" or "tavern".
 107. Retail Store: A place, other than a "restaurant", where goods or products are sold, or rented primarily indoors.
 108. Sand and Gravel Processing: The crushing, sifting and screening of sands and gravels for consumption and use at another location.
 109. Sand, Gravel and Topsoil Extraction, Private: Any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than 50 cubic yards in any two-year period. (See "commercial sand and gravel extraction.")
 110. Sand, Gravel and Topsoil Extraction, Commercial: Any extraction from the land of more than 50 cubic yards in any two-year period of sand, gravel or topsoil for the purpose of sale or use by persons other than the owner of the land; or for the purpose of use by any municipality.
 111. Sawmill, Chipping and Pallet Mill: Any building, site or place used for the cutting or milling of raw timber into dimensional lumber, pallets, chips or other wood products.
 112. School: Any place offering instruction in any branch of knowledge under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, person, partnership, or corporation meeting the requirements of the State Education Department.
 113. Service Station: a use that offers motor fuels, lubricants, tires and accessories for sale and include facilities for maintenance and minor repair of motor vehicles.
 114. Semi-Nude: A state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or

devices.

115. **Setback:** The distance from lot lines to the nearest outside wall or structural element of principal and secondary structures.
116. **Sexual Encounter Center:** A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
117. **Shopping Mall/Plaza:** A building or buildings, located on one lot, which may or may not be enclosed, containing numerous businesses, services and/or restaurants and accessory uses related to those businesses.
118. **Shoreline Building Setback:** The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond, and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the Environmental Conservation law or any river or stream navigable by boat, including canoe.
119. **Shoreline Lot Width:** The distance measured along the shoreline, between the boundary lines of a lot as they intersect the shoreline of any lake or pond, and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable, including canoe.
120. **Sign:** Any inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, activity, object for sale or lease, person or place, or to bear any kind of message. Amended April 12, 2001.
121. **Solar Access:** Space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.
122. **Solar Collector:** A solar photovoltaic cell, panel or array, or any solar hot air or solar tube which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air or water.
123. **Solid Waste:** Refuse, garbage and other discarded items not intended for salvage or resale, e.g., 1Gtcbcn wastes, broken furniture, etc.
124. **Specified Anatomical Areas:** Includes any of the following:
 - a. Unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately above the top of the areola.
 - b. Even if completely and opaquely covered, male genitals in a discernibly turgid state.
125. **Specified Adult Activities:** Includes any of the following:
 - a. Actual sex acts, normal or perverted, including intercourse, oral copulation or sodomy;
 - b. Masturbation;
 - c. Excretory functions;
 - d. Actual acts of dismemberment, mutilation or torture of humans or animals.
126. **Specified Criminal Activity:** Includes any of the following offenses:
 - a. Prostitution or promotion of prostitution; dissemination of obscenity;

distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to an Adult Entertainment Use; sexual assault; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state, or other states or countries;

b. for which:

- i. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a misdemeanor offense; or
- ii. less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a felony offense; or
- iii. less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the last conviction, whichever is later, if the convictions are of two or more misdemeanor offenses or combination of offenses occurring within any 24-month period.
- iv. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

127. **Sportsmen's Club/Firing Range:** A tract of land where persons may hunt, fish, fire weapons, practice archery or engage in related activities, and in which membership is a condition of use. Note that a firing range is considered any facility either out-of-doors or within a building, which is designed to accommodate the discharge of firearms and usually includes targets or skeet launchers.
128. **Stable, Private:** Any building or structure used for housing or enclosing animals usually and customarily used for riding by persons who are the owners or family of the owners of the property on which said stable is located.
129. **Stable, Public:** Any establishment where animals usually and customarily used for riding by persons are kept for riding, driving or stabling for compensation, provided that no housing for persons is associated with such public stable.
130. **Street:** A public or private way which affords the principal means of access to abutting properties, including any highway.
131. **Street Grade:** The officially established grade of the street upon which a lot fronts; or if there is no officially established grade, the existing grade of the street shall be taken as the street grade.
132. **Street Line:** Dividing line between the street and the lot.
133. **Structure:** Any constructed or erected, the use of which requires location on the ground, or attachment to something having location the ground.
134. **Structure, Primary:** A structure in which is conducted the primary use of the lot on which the structure is situated (Formerly Buildings, Principal)
135. **Structure, Accessory:** A detached structure which is of secondary importance to

the principal structure of the parcel, and is not used for human occupancy.

136. Subdivision: The division of any parcel of land into two or more lots, blocks or sites for purposes of development, with or without roads.
137. Storage Yard: A site and/or buildings where materials, supplies or personal items are stored.
138. Tavern: A business use where the primary income is from the sale of alcoholic beverages for consumption on the premises.
139. Theater, Live: A building or part of a building or use of land devoted to dramatic, dance, musical or other live performances not including an Adult Theater.
140. Tourist accommodations: A building or group of buildings, whether detached or in connected units, used as individual sleeping or temporary dwelling units, designed for transients and providing for accessory off-street parking facilities. The term "tourist accommodations" includes buildings designated as tourist courts, motor lodges, motels, hotels, overnight cabins, housekeeping units, and similar facilities.
141. Townhouse: A dwelling unit which is one of a series of units, having a common party wall between adjacent units, each with a private outside entrance, each with its own separate lot of record.
142. Trailer: A recreational vehicle or a temporary dwelling unit for an individual or a family group designed for highway transportation without a special or oversized permit.
143. Trailer Camp: A parcel of land which has been planned and improved for the placement of two or more trailers for transient use.
144. Travel Trailer: A recreational vehicle or a temporary dwelling unit for an individual or a family group designed for highway transportation without a special or oversized permit.
145. Travel Trailer Camp: A parcel of land which has been planned and improved for the placement of two or more travel trailers for transient use.
146. Use, Accessory: A use customarily incidental and subordinate to the principal use or building, and located on the same lot with such principal use or building.
147. Use, Nonconforming: Any established use of building, structure or land lawfully existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district or zone in which it is situated
148. Uses, Auxiliary: An accessory use or accessory structure shall be an Auxiliary use. An Auxiliary use shall be permitted if the use to which it is auxiliary is a lawful use pursuant to the terms of this zoning ordinance and for which a permit has been issued if required pursuant to the terms hereof.
149. Uses, Special: A use listed as a Special use for a given zoning district shall be permitted in that district only when approved in accordance with a special use permit and site plan review, provided all other requirements of this zoning ordinance are met.
150. Uses, Permissible: A use shall be permitted in a given zoning district if it is listed as a Permissible use for that district, provided all other requirements of this zoning ordinance are met, including site plan review.
151. Veterinary Clinic: A facility 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.
152. Waste, Municipal: Any liquid, solid or waste substance, or combination thereof produced by residential or commercial use or as defined by D.E.C. not including recyclable cans and bottles.
 153. Waste, Industrial: Any liquid, gaseous, solid, or waste substance or a combination thereof, resulting from any process or industry, manufacturing, trade or business or from development or recovery of any natural resource.
 154. Waste Site, Municipal: A parcel of land designated for the disposal of municipal waste. Such use is expressly prohibited under this law.
 155. Waste Site, Industrial: A parcel of land designed for the disposal of industrial waste off site of an industrial property. Such use is expressly prohibited under this law.
 156. Wetlands: Any land or earth which is annually subject to periodic or continual inundation by water and commonly referred to as bog, swamp or marsh.
 157. Wholesale Business: A use in which goods are sold to members of a trade or organization, but not to the general public.
 158. Yard, Front: An open unoccupied space on the same lot with the principal building, between the front line of the principal building and the front line of the lot, and extending the full width of the lot. The front yard shall be such which front's street grade with the exception of lakefront properties whose front yard is one which fronts the lake.
 159. Yard, Rear: A space on the same lot with the principal building, between the rear line of the principal building, and the rear line of the lot, and extending the full width of the lot.
 160. Yard, Side: An open unoccupied space on the same lot with the principal building, situated between the side line of the principal building and the adjacent side line of the lot, and extending from the rear line of the front yard to the front line of the rear yard.

ARTICLE III

Establishment and Designation of Districts

3.10 Establishment of District

For the purposes of promoting the public health, safety, morals and general welfare of the Town of Ticonderoga, the following zoning districts are established:

HP-LC:	Historic, park, state lands, land conservation, town lands		
RR:	Rural Residential,	MR:	Medium Residential
HR:	High Residential,	SB:	Service Business
CC:	Central Commercial,	LI:	Light Industrial
I:	Industrial		

3.20 Zoning Maps

Two maps titled " Zoning Map, Town of Ticonderoga, April 1998" and "Zoning Map Former Village, April 1998" to be declared the zoning maps for the Town of Ticonderoga.

The zoning map of the Town of Ticonderoga as provided for in Section 3.20 of the Town

of Ticonderoga Zoning Ordinance is amended to add those certain properties located Northeast of Race Track Road between Race Track Road and the intersection of New York State Routes 74 and 22 to the Central Business District. In accordance with Schedule 1 of the Town of Ticonderoga Zoning Ordinance, in addition to the uses permitted in the Rural Residential and Central Commercial Districts as the properties located in the above referenced area are currently zoned, the properties contained therein may also hereafter be used for any of the permitted uses in the Central Commercial and Service Business District. This amendment shall not be construed to permit Medium Residential Uses on that portion of the properties zoned Service Business on the date hereof in accordance with the Zoning Map currently in effect.

3.30 Interpretation of Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

1. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the said boundaries.
2. In unsubdivided land where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.
3. Where interpretation of boundaries exists, the Board of Appeals shall be responsible for making final determinations.

3.40 Changes and clarifications of Zones for outside the Former Village

1. Changes and clarifications of zones for outside the former Village of Ticonderoga:
 - a. Service Business Zone: West side of Wicker Street, 500' deep shall remain Service Business as far as the Niagara Mohawk power line, including the property just purchased by Glens Falls National Bank, to the power lines. Then, it will run power line to power line to the bypass.
 - b. Service Business Zone: Route 9N Monument South to Alexandria Avenue both sides of the road, center line back 500 feet to and including tax map # 150.2-6-1.000 (Robert Porter) and tax map #150.2-5-11.000 (Neil Murray).
 - c. Service Business: Properties along Wicker Street, both sides off road, south from Old Chilson Road to former Village line.
 - d. No Changes: Burgoyne Triangle, Chilson, Street Road, Route 9N South from Alexandria Avenue to Town of Ticonderoga/Hague line
2. Maps titled ZONING MAP FORMER VILLAGE APRIL 1998 to be declared the zoning map for the area within the Town formerly known as "The Village of Ticonderoga".
3. SCHEDULE I TOWN OF TICONDEROGA ZONING SCHEDULE OF USE CONTROLS APRIL 1998 to accompany said maps and be the Use Control Schedule for the Town.
4. All other zoning maps, previously adopted, will remain; with their respective minimum lot dimensions, yard dimensions, and maximum lot coverage requirements.

ARTICLE IV
District Regulations

4.10 Schedules of Regulation

The restrictions and controls intended to regulate development in each district are set forth in the attached schedules which are supplemented by other sections of this ordinance. Unless other wise indicated, the regulations shall be deemed to be minimum requirements in every instance of their application.

4.20 Application of Regulations

In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience, and general welfare. This ordinance shall not be deemed to affect in any manner whatsoever any covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alterations or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates, or other authorizations, or by easement, covenants, or agreements, the provisions of this Ordinance shall prevail.

Except as hereinafter provided, the following general regulations shall apply to every building and use covered by this ordinance:

1. No building, structure or sign shall be erected, moved, altered, rebuilt, or enlarged, nor shall any land, water or structure be used, designed or arranged to be used, for any purpose except in conformity with this Ordinance, and with the schedules constituting the Article, for the district on which such structure or land or water is located.
2. Every building, structure or sign hereafter erected shall be located on a lot as herein defined and, except as herein provided, there shall be not more than one main building and its accessory buildings on one lot, except for non-residential buildings in districts where such uses and structures are permitted.
3. No yard or other open space necessary for any building under these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.
4. A mobile home is to be considered a main building whether occupied or unoccupied. A mobile home shall not be converted into a storage building. Amended April 12, 2001.

4.30 Purpose of Industrial Zone

Purpose: The purpose of the Industrial Zone, in the Town of Ticonderoga, is to allow for economic growth in an area of the town that is readily accessible to vehicular traffic and public utilities.

Location: The zone is located in that section of the town North of Route 74, West of the Niagara-Mohawk power Corporation line, West of Route 9N and 22, and South of the Johnson Farm Road. Tax map identification of parcels in industrial zone:

150.02-1-2.100 (Only that portion of the parcel that lies on the
Northerly side of Route 74)

150.02-1-5.000 (Only that portion of the parcel that lies on the
 Northerly side of Route 74)
 139.04-1-54.000, 139.04-1-56.000
 139.03-1-28.000 (Only that portion of the parcel that lies on Tax
 Map #139.04)
 139.04-1-1.100, 139.04-1-2.000

1. No person shall conduct a yard sale, barn sale, garage sale, tag sale, hawk, peddle, or hold a similar event on a residential premise, regardless of how the event is described, except in accordance with the provisions of this section. Such event shall occur not more than three times per calendar year on a residential premise nor shall such event exceed three consecutive calendar days per occurrence. All such events shall be restricted to the hours of 8am to 8pm. Any signage associated with the event shall be installed not more than one week before the start of the event and removed immediately upon its close. Any use, which is longer than the days specified above, shall be considered a commercial use and shall require a variance. Any use as described above in a commercial district, which is longer than the days specified above, shall require a site plan review and approval before being undertaken. Amended April 12, 2001.
2. Notwithstanding any other provision of this Ordinance, "farm operations" as defined in article 25-AA of the New York State Agriculture and Markets Law, shall be a permitted principal use in all areas located within an agricultural district adopted by the County of Essex and certified by the Commissioner of Agriculture pursuant to said Article 25-AA, regardless of what zoning district such areas are located within. This provision shall supersede any conflicting provision of this Ordinance. Amended June 17, 2003.

ARTICLE V
 Supplementary Regulations

5.10 Lot Regulations

The provisions of this ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary regulations:

1. Subdivision of a lot: Where a lot is formed hereafter from the part of a lot already occupied by building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Ordinance with respect to the existing building, and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot this created, unless it complies with all the provisions of this ordinance.
2. Repealed July 29, 1999 by Local Law # 3 of 1999.
3. Access to Lots: A lot to be used for building purposes shall have direct frontage on a street.

5.20 Lakefront protection

1. Application of Regulation: For the purpose of protecting the lakefronts and in order to maintain safe, healthful conditions and to prevent and control water pollution and to control building sites, placement of structures and preserve shore cover and natural beauty, these regulations shall apply to all lakefront properties. The use of land and

water, the size, type and location of structures on lots, the installation of waste disposal facilities, the filling, grading, lagooning and dredging of any land, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the regulations of this section of the Ordinance, other provisions of this Ordinance and any other applicable ordinances and regulations.

2. Lot Width: The minimum lot width at the water's edge shall be fifty (50) feet.
3. On-Lot sewage disposal systems: Individual on-lot systems shall not be permitted within one hundred feet from the normal high water mark of the lakefront. Plans and specifications for individual on-lot systems on all lakefront properties must be approved by the New York State Department of Health.
4. Setback from the Water: All buildings and structures except piers, marinas, boat houses, and similar uses which require lesser setbacks, as determined by the Zoning Board of Appeals, shall be setback at least fifty (50) feet from the normal high water mark of the lakefront.
 - a. Zoning Interpretation August 21, 1998: The Zoning Board of Appeals shall use the Adirondack Park Agency and Lake George Park Commission guidelines when making decisions on setbacks and similar use questions.
5. Filling, Grading, Lagooning, and Dredging: Filling, grading, lagooning, and dredging shall not cause substantial detriment to the appearance of the lakefront.

5.30 Yards

1. Terraces: A paved terrace may be included as a part of the yard in determination of yard size, provided, however, that such a terrace is unroofed and without walls or parapets. Such terrace, however, may have a guard railing not over three feet in height and shall not project into any yard to a point closer than five feet from any lot line.
2. Porches: No porch or deck may project into any required yard. An enclosed porch shall be considered a part of the building in determining the size of the yard or amount of lot coverage. Amended April 12, 2001.
3. Yards for Corner Lots: On a corner lot, each side which abuts a street shall be deemed a front yard and the required yard along each street shall be the required front yard. The owner shall decide (when applying for a building permit) which of the remaining yards shall be the required side yard and the required rear yard.
4. Yards for Double Frontage Lots: For any through lot, fronting on parallel or abutting streets, both frontages will comply with the front yard requirements of the district in which it is located.
5. Bay Windows, including their cornices and eaves, may project into any required yard not more than three feet, provided, however, that the sum of such projections on any one wall do not exceed one-fourth the length of any such wall
6. Fire Escapes: Open fire escapes may extend into any required yard not more than six feet, provided, however, that such fire escape shall not be closer than four feet at any point to any lot line.
7. Walls and Fences: The yard requirements of this ordinance shall not be deemed to prohibit any necessary retaining wall, nor to prohibit any suitable fence or wall, provided that in the residential district, no fence or wall shall exceed four feet in height in any front yard, six feet in height in any side yard, or eight feet in height in any rear yard, measured above the finished grade. All fences newly constructed or relocated shall be erected so

- that the most pleasant or good side faces the adjoining properties. No building permit shall be required for such wall or fence, but compliance with these regulations shall be adhered to. In addition to the foregoing, no wall or fence shall be constructed on any corner lot in the front yard thereof. The front yard is as set forth in Section 5.33 hereof. Amendments of April 12, 2001 and February 9, 2006, Local Law 3 of 2006.
8. Visibility at intersection: On a corner lot in any district, no fence, wall hedge, sign or other structure or planting, more than three feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting street lines or straight line joining said street lines at points which are thirty feet distant from the point of the intersection, measured along said street lines or projections. The height of three feet shall be measured above the curb level, if any, or above the existing road level.
 9. Setbacks from Street Boundary: In the Medium Density Residential and Central Commercial Districts, all principal buildings shall be setback ten feet from the street boundary or street pavement, whichever results in the greater setback. Local Law 3 of 2006

5.40 Accessory Uses

1. Location of Detached Accessory Buildings in Required Yard Area: No accessory building shall be located closer than three feet from any lot line and ten feet from any street boundary or street pavement, whichever results in the greater setback. Local Law 3 of 2006.
2. Small non commercial structures not intended for human habitation that are less than 140 square feet in size shall not require a building permit; however, compliance with Section 5, shall be adhered to. Amended April 12, 2001. Renumbered Local Law 3 of 2006.

5.50 Off-Street parking and Loading Spaces

1. Off-Street Parking Spaces: For any permitted use of premises hereinafter established, parking spaces shall be provided and maintained off the street in accordance with the standards as specified in Schedule II of this Ordinance and below, and any use already established shall conform to these standards to the extent that it conforms at the time of adoption of this regulation.
2. Off-Street Parking Lots: parking lots shall be separated from any public street by a curb, fence or other barrier at the street line, except at the points of access.
3. Off-Street Loading Space: For all non-residential uses with a floor area of 2,500 square feet, to and including 25,000 square feet, one loading space shall be required. For each additional 25,000 square feet or fraction thereof, one additional space shall be required.
4. Maintenance: Off-street parking and loading areas shall be suitably improved (drained and graded) and maintained, so as not to cause any nuisance from excessive storm water, dust or erosion.

Schedule II
Off-Street Parking Requirement

Uses	Number of Off-Street Parking Spaces Required
(1) Churches, community buildings, or other places of public	One (1) for each four seats

service or public assembly	
(2) One-family detached and multiple dwelling	One (1) for each dwelling unit
(3) Public Schools	One (1) per classroom in an elementary and junior high school and two (2) per classroom in a senior high school, plus load and unloading facilities for school buses
(4) Customary Home occupations	Two (2) for each dwelling unit
(5) Nursing Homes	One (1) for each four (4) beds plus one (1) for each employee
(6) Tourist Accommodation including Hotels and motels	One (1) for each accommodation unit plus one (1) for each employee
(7) Restaurants and eating establishments	Two (2) for each six (6) seats plus two (2) for each three (3) employees
(8) Offices-Business and Professional	One (1) for each 500 square feet of floor area.
(9) Retail stores and shops	Three and one-half (3.5) spaces for each one thousand (1,000) square feet of gross leasable floor area. Local Law 3 of 2006.
(10) Public Garages and service Stations	Three (3) for each employee plus space for all vehicles used directly in the conduct of such business
(11) Club houses and permanent meeting places of veterans, business, civic, fraternal, labor and other similar organizations	One (1) for each 100 square feet of gross floor area, but not less than one (1) for each four (4) seats

5.60 Sign Regulations

Signs may be erected and maintained only when in compliance with the following provisions:

1. Within the Adirondack park pursuant to a written permit required by Section 3-0327 of the Conservation Law and issued by the Department of Environmental Conservation.
2. Within the Lake George park pursuant to a written permit required by Section 847 of the Conservation Law and issued by the Lake George Park Commission.

5.70 Home occupations

To be considered a home occupation, a business must meet the following criteria. If any of the criteria are not met, the business use shall be deemed a commercial use rather than a home occupation.

1. Property must be the primary residence of the person conducting the home occupation.
2. In no way shall the appearance of the structure be altered or the occupation be conducted in a manner which would cause the premises to differ from it's residential character by the use of colors, materials, construction, lighting, or emission or sounds or vibrations. No use shall create noise, dust, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance in excess of that created by a residence.
3. No outdoor display of goods or materials used in the home occupation shall be permitted.
4. No more than one commercial vehicle used in conjunction with the business shall be parked on the property.

5.80 Adult Entertainment Business Overlay District

6. Policy, Statutory, Authority, Legislative Findings: Under the power vested in the Town of Ticonderoga in Town Law Section 264, the Town has enacted a Zoning Ordinance (1972, as amended). In the exercise of its police power the Town Board has the power to enact local laws to promote the health, safety, welfare and quality of life for its residents and visitors, and under Article IX of the Town's Zoning Ordinance and Town Law Section 265, the Town Board has the power to supplement or repeal the regulations and provisions of the Zoning Ordinance after public notice and hearing. The Town Board has conducted a study of the secondary effects of Adult Entertainment Businesses culminating in a Secondary Effects Study of Adult Entertainment Businesses, which was approved by resolution of the Town Board of the Town of Ticonderoga on December 12, 2002, and a copy of which is on file with the Town Clerk of the Town of Ticonderoga. Among the findings by the Town Board of the Town of Ticonderoga are the following: that the negative secondary effects of Adult Entertainment Business, as defined herein, include a decrease in property values for properties, both residential and commercial, within a given radius of said uses, and an increase in crime, drug use, prostitution, and serious felonies. That to best protect the residents of and visitors to the Town of Ticonderoga, it is in the interests of the Town of Ticonderoga that an amendment be made to the Town of Ticonderoga Zoning Ordinance providing for an overlay district to regulate such Adult Entertainment Businesses.
In addition, the Town Board of the Town of Ticonderoga expressly states that it is not the intention of the Town of Ticonderoga to regulate the speech offered by such establishments and that such establishments are not prohibited in the Town of Ticonderoga provided the proprietors thereof fully comply with the requirements of this local law and any other applicable State, Federal and/or Town of Ticonderoga Law.
7. License Required. A person shall be guilty of a misdemeanor if that person operates an Adult Entertainment Use without a license pursuant to this Section 5.80 of the Zoning Ordinance.
 - a. An application for a license, and for any license renewal, must be made on a form provided by the Town of Ticonderoga. All applicants must be qualified according to the provisions of this Local Law. A license shall be considered a special permit, and shall comply, in all respects, with the requirements for a special use permit under the Town's Site Plan Review Law, including, without limitation, the requirement that such use undergo site plan review consideration, as well as all requirements under this Section 5.80 of Article V of the Zoning Ordinance.
 - b. An applicant for an Adult Entertainment Use license shall file an application or an Adult Entertainment Business license with the Town of Ticonderoga Planning Board. A license shall also require site plan review and special use permit under this Zoning Ordinance. An application shall be considered complete if it includes all information required in this Section 5.80 of Article V of the Zoning Ordinance. The application shall include all information set forth in paragraphs I through 9, below:
 - i. Current business address of the applicant.
 - ii. Current mailing address of the applicant if different than mailing address.
 - iii. The Applicant's fingerprints suitable for conducting a necessary

background check pursuant to this Local Law and the Applicant's social security number.

- iv. The legal name, proposed location, legal description, phone number, and mailing address of the proposed Adult Entertainment Use.
 - v. Written proof of age of the Applicant in the form of a copy of the birth certificate and current driver's license or a duly issued passport issued by a governmental agency.
 - vi. The name and address of the statutory agent or other agent duly appointed to accept service of process on behalf of the Applicant.
 - vii. A detailed floor plan including the square footage of the building proposed to house such use, and including all details of such building including public rooms, storage rooms, bathrooms, etc. The sketch need not be professionally prepared but shall be submitted on graph paper and be drawn to scale with all dimensions on the interior of the premises marked to an accuracy of plus or minus six (6) inches.
 - viii. If a person who wishes to operate an Adult Entertainment Use is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate an Adult Entertainment Use is a corporation or other business entity authorized and recognized to do business in the State of New York, each officer, director, general partner or other person who shall participate directly in the decisions related to the Adult Entertainment Use shall sign the application as applicant.
 - ix. A statement by the Code Enforcement Officer that the proposed location meets with any other applicable Zoning Law or other Town Local Law or Ordinance concerning the proposed location of the Adult Entertainment Use.
- c. A non-refundable initial license fee shall be collected at the time of application in the amount of \$250. The renewal fee for a license hereunder shall be \$125.
 - d. A person who operates or causes to be operated a Adult Entertainment Business, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - i. Upon application for a Adult Entertainment Business oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram-shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six

inches (6"). The Town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- e. The application shall be sworn to be true and correct by the applicant under penalties of perjury.
- f. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Planning Board.
- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- h. It shall be the duty of the licensee to ensure that the view area specified in subsection remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this Section.
- i. No viewing room shall be occupied by more than one person at any time.
- j. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access.
- k. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- l. A person having a duty under Subsection (1) through (8) of Subsection (d) above commits a misdemeanor if he knowingly fails to fulfill that duty.
- m. An escort agency shall not employ any person under the age of 18 years. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
- n. It shall be a misdemeanor for a person who knowingly or intentionally in an Adult Entertainment Business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two feet from the floor.
- o. It shall be a misdemeanor for an employee, while semi-nude in an Adult Entertainment Business, to receive directly any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee, while said employee is semi-nude in an Adult Entertainment Business
- p. It shall be a misdemeanor for an employee of an Adult Entertainment Business, while semi-nude, to knowingly and intentionally touch a customer or the clothing of a customer.
- q. A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of an Adult Entertainment Business.

- r. No Adult Entertainment Business, except for an adult motel, may remain open at any time between the hours of Midnight and eight o'clock (8:00) A.M. on weekdays and Saturdays, and Midnight and noon (12:00) P.M. on Sundays.
8. Issuance of License. At a duly noticed public hearing on the application as more fully set forth in the Town of Ticonderoga Site Plan Review Law, the applicant shall appear before the Planning Board and the application shall be considered thereat. The applicant shall personally appear together with any agents or advisors of such applicant.
- a. In addition to any other reasons for denying an application under applicable Law, the Planning Board may deny the application for the following:
 - i. The applicant is less than 18 years of age.
 - ii. The applicant is delinquent in the payment to the Town of taxes, fees, or penalties assessed or imposed on the applicant in relation to an Adult Entertainment Use.
 - iii. An applicant has failed to provide information as required under this Section 5.80 of Article V of the Zoning Ordinance.
 - iv. An applicant, or a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling interest, has been convicted of a Specified Criminal Activity.
 - v. The application fee required in this Section 5.80 of Article V of the Zoning Ordinance has not been paid.
 - vi. The proposed Adult Entertainment Business is located or proposed to be located in a zoning district other than a district in which Adult Entertainment Business are allowed to locate as set forth in this Section 5.80 of Article V of the Zoning Ordinance.
 - vii. The applicant has falsely answered a question or request for information on the application form.
 - b. The license, if granted, shall state on its face the name of the person, persons, or entity, to whom the license is issued, the number of the license issued to the applicant, the expiration date thereof, and the address of the Adult Entertainment Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Entertainment Business so that it may be easily read at any time.
9. Inspection. A licensee shall permit all law enforcement officers, and any other federal, state, county or town official in the performance of any governmental function connected with the enforcement of this Section 5.80 of Article V of the Zoning Ordinance, normally and regularly conduct by such officials, to inspect those portions of the premises of an Adult Entertainment Use where patrons or customers are permitted to occupy for the purposes of ensuring compliance with this Section 5.80 of Article V of the Zoning Ordinance, at any time the business is occupied by any person or open for business. The provisions of this Section shall not apply to the areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
10. Expiration of License. Each license shall expire one year from the date of issuance and may be renewed only by making an application as provided in Section 5.83. Application for renewal shall be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will

not be affected. If an application for renewal is denied by the Planning Board, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to the denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date denial became final.

11. Suspension and Revocation.

- a. The Code Enforcement Officer shall issue a written intent to suspend the license for a period not to exceed thirty (30) days if he or she determines that a licensee has violated or is not in compliance with this Section 5.80 of Article V of the Zoning Ordinance, or has refused to allow an inspection of the Adult Entertainment Business authorized by this Section 5.80 of Article V of the Zoning Ordinance.
- b. A license may be revoked under provisions of this Section 5.87(b) and under the Hearing provisions of Section 5.87(c). The Code Enforcement Officer shall issue a written statement of intent to revoke a license if:
 - i. A cause of suspension in Section 5.87(a) occurs and the license has been suspended within the preceding twelve (12) months.
 - ii. The Code Enforcement Officer determines that the licensee gave false or misleading information in the material submitted during the application process.
 - iii. The Code Enforcement Officer finds that a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - iv. The Code Enforcement Officer finds that a licensee has knowingly allowed prostitution on the premises.
 - v. The Code Enforcement Officer finds that a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur on or in the licensee's premises. This subsection shall not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (i) in exchange for money, or (ii) in a public place or within public view.
 - vi. The fact that a conviction is being appealed shall have no effect on any finding by the Code Enforcement Officer or a determination on the revocation of a license.
- c. A written notice of intention to suspend or revoke a license under Sections 5.87(a) or (b), respectively, shall be personally served on the licensee or mailed by certified mail, return receipt requested at the address of the licensee noted on the license. Any written notice of intention to suspend or revoke a license shall include a notice that the licensee may, within 10 business days of receipt of the notice to suspend or revoke, deliver to the Code Enforcement Officer a statement of reasons why the license should not be suspended or revoked, as the case may be. Such notice of intention to suspend or revoke and the licensee's response thereto, if any, shall be delivered by the Code Enforcement Officer to the Planning Board. The Planning Board shall schedule the matter to be by the Planning Board at the next hearing of the Planning Board. If the Planning Board finds that a suspension or revocation of the license is warranted, then the Planning Board shall direct that the license be revoked or suspended, as the case may be.

An appeal of the decision of the Planning Board may be had to the Zoning Board of Appeals in accordance with the Zoning Board of Appeals Law of the Town of Ticonderoga. Any Court action to challenge the decision of the Zoning Board of Appeals of an appeal of a Planning Board Decision under this Section 5.80 of Article V of the Zoning Ordinance shall be commenced within thirty (30) days from the date of the final decision of the Zoning Board of Appeals.

12. Location Of Adult Entertainment Business.

- a. A person commits a misdemeanor if that person operates or causes to be operated an Adult Entertainment Business in any zoning district other than that defined herein.
- b. A person commits such offense if the person operates or causes to be operated an Adult Entertainment Business outside of an Industrial Zone and/or within 1,000 feet of:
 - i. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activity;
 - ii. A public or private educational facility including, but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and/or universities; school includes the school grounds;
 - iii. A boundary of a residential district as defined in the Zoning Law;
 - iv. A public park or recreational area which has, been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, wilderness areas, or other similar public land within the town which is under the control, operation, or management of the town;
 - v. The property line of a lot devoted to a residential use as defined in the Zoning Ordinance;
 - vi. An entertainment business which is oriented primarily towards children or family entertainment;
 - vii. A license premises, licensed pursuant to the alcoholic beverage control laws of the State of New York
 - viii. Another Adult Entertainment Business.
- c. A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one Adult Entertainment Business in the same building, structure, or portion thereof, or the increase of floor area of any Adult Entertainment Business in any building containing another Adult Entertainment Business.
- d. For the purposes of measuring the distances in this Section 5.88, measurement shall be made in a straight line, without regard to the intervening structures, objects, or natural land characteristics, from the nearest portion of the building or structure used as the part of the premises where an Adult Entertainment Business is conducted, to the nearest property line of the premises of a use in Section 5.88(b). Presence of a town, county or other political subdivision boundary line

shall be irrelevant for purposes of calculating and applying the distance requirements of this Section. For purposes of measuring the distance between any two or more Adult Entertainment Businesses, distance shall be measured as applied above, with the exception that the points of reference shall be from the closest exterior walls of the structures in which each business is located.

- e. Any Adult Entertainment Business lawfully operating on the effective date of this Local Law that is in violation with any part of this Section 5.80 of Article V of the Zoning Ordinance shall be deemed a nonconforming use and shall be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or in any way altered except that the use may be changed to a conforming use.

13. General Provisions

- a. **Transfer of License.** A licensee may not transfer his or her license to any other person or entity, nor shall an Adult Entertainment Business be operated at any other location other than that approved in the license. For purposes of this Local Law, a transfer shall also be deemed to have occurred if the licensee is a corporation, partnership, company or any other business entity recognized to do business in the State of New York, and the owners or managers thereof, who must also be named on the license, convey a controlling interest, either collectively or independently, in such corporation, partnership, company or other business entity recognized to do business in the State of New York.
- b. **Exemptions.** It is a defense to prosecution under this Local Law that a person appearing in a state of nudity did so in a modeling class operated:
 - i. by a proprietary school, licensed by the State of ; a college, junior college, or university supported entirely or partly by taxation;
 - ii. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - iii. in a structure:
 - 1. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - 2. where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - 3. where no more than one nude model is on the premises at any one time.
- c. **Injunction.** A person who operates or causes to be operated an Adult Entertainment Business without a valid license or in violation of this Section 5.80 of Article V of the Zoning Ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$200.00 or thirty (30) days imprisonment. Each day an Adult Entertainment Business so operates is a separate offense or violation.

- 14. **Prohibition Against Residential Uses on the First Floor of Buildings in the Central Commercial District.** Notwithstanding any provision of this Zoning Ordinance to the contrary, there shall be no residential use of any building in the Central Commercial

District on the first floor of said building. For the purposes of this Zoning Ordinance, the first floor shall be deemed the first floor accessing the street level in any building in the Central Commercial District. In the event of a dispute concerning what floor constitutes the first floor, a property owner may apply to the Planning Board for a determination relative to whether or not a floor constitutes the first floor as defined herein.

- a. Upon application for site plan approval, the Planning Board may authorize a portion of a first floor to be residential in the Central Commercial District where:
 - i. The remainder of such first floor is utilized for business purposes as permitted in the Central Commercial District; and
 - ii. The portion of the first floor to be used as residential will be occupied by the person conducting the business on the remainder of such first floor; and
 - iii. The majority of the square footage (i.e., more than 60%) of such first floor is utilized for commercial purposes.
 - iv. In the event the person to reside in such residential portion ceases for any reason to reside in such residential portion, the prohibitions against residential use on such first floor of such building shall apply. The rental of the first floor for residential purposes shall not be deemed 'commercial' for purposes of this Local Law and this amendment to the Town of Ticonderoga Zoning Ordinance.

5.90 Solar Energy Local Production

1. Statement of Purpose. This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:
 - a. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
 - b. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
 - c. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
 - d. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
 - e. To create synergy between solar and other natural resources of the Town in accordance with the Town's Comprehensive Plan.
2. Definitions. Notwithstanding any conflicting definition contained elsewhere in this Local Law, for purposes of this section 5.90, the following terms shall have the definitions set forth below. Any other terms shall have the definition set forth in this Law:
 - a. Building-Integrated Solar Energy System: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.
 - b. Farmland Of Statewide Importance: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of

Statewide Importance may include tracts of land that have been designated for agriculture by state law.

- c. Glare: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.
 - d. Ground-Mounted Solar Energy System: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.
 - e. Native Perennial Vegetation: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.
 - f. Pollinator: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.
 - g. Prime Farmland: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.
 - h. Roof-Mounted Solar Energy System: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.
 - i. Solar Access: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.
 - j. Solar Energy Equipment: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.
 - k. Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.
 1. Tier 1 Solar Energy Systems include the following:
 - i. Roof-Mounted Solar Energy Systems
 - ii. Building-Integrated Solar Energy Systems
 2. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 4,000 square feet and that generate up to 110 % of the electricity consumed on the site over the previous 12 months.
 3. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.
 - l. Solar Panel: A photovoltaic device capable of collecting and converting solar energy into electricity.
3. Applicability

- a. The requirements of this section 5.90 shall apply to all Solar Energy Systems permitted, installed, or modified in Town.
 - b. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this section 5.90.
 - c. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town Code.
4. General Requirements
- a. A Building permit shall be required for installation of all Solar Energy Systems.
 - b. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
 - c. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
5. Permitting Requirements for Tier 1 Solar Energy Systems . All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under this Law, subject to the following conditions for each type of Solar Energy Systems:
- a. Roof-Mounted Solar Energy Systems
 - 1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - 1. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
 - 2. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - 3. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - 4. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
 - 2. Glare: All Solar Panels shall have anti-reflective coating(s).
 - 3. Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.
 - b. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.
6. Permitting Requirements for Tier 2 Solar Energy Systems. All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall require site plan review under the local zoning code or other land use regulations, subject to the following conditions:
- a. Glare: All Solar Panels shall have anti-reflective coating(s).
 - b. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All

Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

- c. Height: Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 3.
 - d. Screening and Visibility.
 1. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
 - e. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.
7. Permitting requirements for Tier 3 Solar Energy Systems. All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Rural Residential (but no closer than 600 feet to any residential structure), Service Business, Light Industrial, Industrial zoning districts, and subject to site plan review requirements set forth in this Section.
- a. Applications for the installation of Tier 3 Solar Energy System shall be:
 1. reviewed by the Code Enforcement for completeness.
 2. subject to a public hearing to hear all comments for and against the application. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
 3. referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
 4. upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.
 - b. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
 - c. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
 - d. Signage.
 1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet
 2. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective

- surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- e. Glare. All Solar Panels shall have anti-reflective coating(s).
 - f. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
 - g. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
8. Decommissioning. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town as set forth in Section 10(b) herein.
- a. A decommissioning plan (see Appendix 4) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
 1. The cost of removing the Solar Energy System.
 2. The time required to decommission and remove the Solar Energy System any ancillary structures.
 3. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
 - b. Security.
 1. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
 2. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
 3. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.
9. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:
- a. Property lines and physical features, including roads, for the project site
 - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

- c. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- d. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- e. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit
- f. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- g. Zoning district designation for the parcel(s) of land comprising the project site.
- h. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- i. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- j. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

10. Special Use Permit Standards.

- a. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.
- b. Setbacks. The Tier 3 Solar Energy Systems shall meet the setback requirements in Appendix 2.
- c. Height. The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3 depending on the underlying zoning district.
- d. Lot coverage.
 - 1. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
 - i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - ii. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - iii. Paved access roads servicing the Solar Energy System.
 - iv. The square footage surface area included within any fenced area or the area of the panels, whichever is greater.
 - 2. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.

- e. Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- f. Screening and Visibility.
 - 1. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
 - 2. Solar Energy Systems larger than 10 acres shall be required to:
 - i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.
 - ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
 - a. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs at the reasonable discretion of the Town Planning Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town.
- g. Agricultural Resources. For projects located on agricultural lands:
 - 1. Any Tier 3 Solar Energy System shall not exceed 50 % of the total acreage of the lot on which it is located.
 - 2. To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
 - 3. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- h. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the

obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

11. Safety
 - a. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required
 - b. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
12. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of section 5.10 of this Law and any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.
13. Permit Time Frame and Abandonment
 - a. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.
 - b. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
 - c. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

Section 5.90 APPENDIX 1: LOT SIZE REQUIREMENTS

The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems to be permitted.

Table 1: Lot Size Requirements

Zoning District	Tier 3 Solar Energy Systems
Rural Residential	≥ 2 acres
High Density Residential/Medium Density Residential	Not allowed
Central Commercial	Not allowed

Service Business/ Light Industry/ Industry	≥ 5 acres
Historic Preservation and Land Conservation	≥ 5 acres

APPENDIX 2: PARCEL LINE SETBACKS

The following table provides parcel line setback requirements for Ground-Mounted Solar Energy Systems. Fencing, access roads and landscaping may occur within the setback.

Section 5.90 Table 2: Parcel Line Setback Requirements

Zoning District	Tier 3 Ground-Mounted		
	Front	Side	Rear
Rural Residential	Not allowed in Front Yard	100'	100'
Service Business	30'	15'	25'
Light Industry	30'	15'	25'
Industry	30'	15'	25'
Historic Preservation and Land Conservation	30'	15'	25'

APPENDIX 3: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

Section 5.90 Table 3: Height Requirements

Zoning District	Tier 1 Roof-Mounted	Tier 2	Tier 3
Rural Residential	2' above roof	10'	15'
Service Business	4' above roof	15'	20'
Light Industry	4' above roof	15'	20'
Industry	4' above roof	15'	20'
Historic Preservation and Land Conservation	4' above roof	15'	20'

Section 5.90 APPENDIX 4: EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at:
[Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____ Date: _____

5.10 Battery Energy Storage. This Section 5.10 is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- a. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
 - b. To protect the health, welfare, safety, and quality of life for the general public;
 - c. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
 - d. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
 - e. To create synergy between battery energy storage system development and [other stated goals of the community pursuant to its Comprehensive Plan].
1. Definitions. Notwithstanding any conflicting definition contained elsewhere in this Local Law, for purposes of this section 5.90, the following terms shall have the definitions set forth below. Any other terms shall have the definition set forth in this Law:
- a. ANSI: American National Standards Institute

- b. **Battery:** A single Cell or a group of Cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.
- c. **BATTERY ENERGY STORAGE MANAGEMENT SYSTEM:** An electronic system that protects storage batteries from operating outside their safe operating parameters and generates an alarm and trouble signal for off normal conditions.
- d. **BATTERY ENERGY STORAGE SYSTEM:** A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power to a building. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, or similar capabilities. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System as follows:
 - 1. Tier 1 Battery Energy Storage Systems include either:
 - a. Battery energy storage systems for one to two family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
 - i. 40 kWh within utility closets and storage or utility spaces
 - ii. 80 kWh in attached or detached garages and detached accessory structures
 - iii. 80 kWh on exterior walls
 - iv. 80 kWh outdoors on the ground
 - b. Other battery energy storage systems with an aggregate energy capacity less than or equal to the threshold capacity listed in Table 1
 - 2. Tier 2 Battery Energy Storage Systems include battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity greater than the threshold capacity listed in Table 1, and have an aggregate energy capacity less than 600 kWh

Section 5.10 Table 1:

Battery Energy Storage System Tier 2 Threshold Quantities

Battery Technology	Capacity
Flow batteries	20 kWh
Lead acid, all types	70 kWh
Lithium, all types	20 kWh
Nickel cadmium (Ni-Cd)	70 kWh
Nickel metal hydride (Ni-MH)	70 kWh
Other battery technologies	10 kWh

- 3. Tier 3 Battery Energy Storage Systems include all the following:

- a. Battery energy storage systems with an aggregate energy capacity greater than or equal to 600kWh
 - b. Battery energy storage systems with more than one storage battery technology is provided in a room or indoor area
- e. Commissioning: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.
- f. Dedicated-Use Building: A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:
 - a. The building's only permitted primary use is for battery energy storage, energy generation, and other electrical grid-related operations.
 - b. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
 - c. No other occupancy types are permitted in the building.
 - d. Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain battery energy storage system, provided the following:
 - i. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - ii. A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.
- g. Dwelling Unit: One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation
- h. Energy Code: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.
- i. Fire Code: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.
- j. Flow Battery: A type of rechargeable Battery that uses typically large, separated liquid reservoirs of electrolytes that flow through a reaction zone to store, charge, and discharge energy. These electrolytes are typically non-flammable.
- k. Lead-Acid Battery: A rechargeable Battery that is comprised of lead electrodes immersed in sulphuric acid electrolyte. These batteries may be flooded, vented, sealed, or may come in other form factors. They may produce hazardous gases during normal operations.
- l. Lithium-Ion Battery: A storage Battery with lithium ions serving as the charge carriers of the Battery. The electrolyte is typically a mixture of organic solvents with an inorganic salt and can be in a liquid or a gelled polymer form
- m. Nationally Recognized Testing Laboratory (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for

certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

- n. Nec: National Electric Code.
 - o. NFPA: National Fire Protection Association.
 - p. Nickel-Based Battery: A rechargeable Battery in which the positive active material is nickel oxide, the negative contains either cadmium (Nickel-cadmium, Ni-Cd), hydrogen ions stored in a metal-hydride structure (Nickel-metal hydride, Ni-MH), or zinc (Nickel-zinc, Ni-Zn) as the electrode and the electrolyte is potassium hydroxide.
 - q. Non-Dedicated-Use Building: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.
 - r. Non-Participating Property: Any property that is not a Participating property.
 - s. Occupied Community Building: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.
 - t. One-To-Two-Family Dwelling: A building that contains not more than two dwelling units with independent cooking and bathroom facilities.
 - u. Participating Property: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.
 - v. Special Flood Hazard Area: The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.
 - w. Uniform Code: the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.
2. Applicability
- a. The requirements of this Section 5.10 shall apply to all battery energy storage systems permitted, installed, or modified in Town, excluding general maintenance and repair.
 - b. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Section 5.10.
3. General Requirements
- a. A Building permit, and an electrical permit shall be required for installation of all battery energy storage systems.
 - b. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
 - c. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery

energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

4. Permitting Requirements for Tier 1 Battery Energy Storage Systems . Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts and shall be subject to the “Battery Energy Storage System Permit” and exempt from site plan review.
5. Permitting Requirements for Tier 2 Battery Energy Storage Systems. Tier 2 Battery Energy Storage Systems shall be permitted in all zoning districts, shall be subject to the Uniform Code (referenced in Appendix 2) and the “Battery Energy Storage System Permit,” and are exempt from site plan review.
6. Permitting Requirements for Tier 3 Battery Energy Storage Systems. Tier 3 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the Rural Residential (but no closer than 600 feet to any residential structure), Service Business, Light Industrial, Industrial zoning districts, and subject to the Uniform Code and site plan application requirements set forth in this Section.
 - a. Applications for the installation of Tier 3 Battery Energy Storage System shall be:
 1. reviewed by the Code Enforcement for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, Permit Time Frame and Abandonment.
 2. subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
 3. referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
 4. upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and Applicant.
 - b. Floodplain. The Applicant of battery energy storage systems shall obtain necessary local floodplain development permits if proposed within Special Flood Hazard Areas.
 - c. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
 - d. Signage.

1. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
 2. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- e. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
 - f. Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 3 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
 - g. Noise. The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any Non-participating Residence and Occupied Community Building. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
 - h. Decommissioning.
 1. Decommissioning Plan. The applicant shall submit a decommissioning plan developed in accordance with the Uniform Code, containing a narrative description of the activities to be accomplished for removing the energy storage system from service, and from the facility in which it is located. The decommissioning plan shall also include: (i) the anticipated life of the battery energy storage system; (ii) the estimated decommissioning costs; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and restoration; (v) the method that the decommissioning cost will be kept current; (vi) the manner in which the battery energy storage system will be decommissioned, and the Site restored; and (vii) a listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
 2. Decommissioning Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.
 - i. Site plan application. For a Tier 3 Battery Energy Storage System requiring a Special

Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

1. Property lines and physical features, including roads, for the project site.
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
3. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
4. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
6. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
 1. Zoning district designation for the parcel(s) of land comprising the project site.
7. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code (referenced in Appendix 1). Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code (referenced in Appendix 1) shall be provided to Planning Board prior to final inspection and approval and maintained at an approved on-site location. Energy storage system commissioning shall not be required for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that comply with NFPA 76 and operate at less than 50 VAC and 60 VDC.
8. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code (referenced in Appendix 2).
9. System and Property Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code (referenced in Appendix 3).
10. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and

to such standards as may be established by the Planning Board.

11. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer or NYS Registered Architect.
12. An Emergency Operation Plan per requirements set forth in Appendix 4.

j. Special Use Permit Standards.

1. Setbacks. Tier 3 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
2. Height. Tier 3 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
3. Fencing Requirements. Tier 3 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
4. Screening and Visibility. Tier 3 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports
5. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the zoning enforcement officer (ZEO) of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the ZEO in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the ZEO in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

7. **Safety**

- a. System Certification. Battery energy storage systems and Equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 or CAN 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards that are applicable based on the storage type (electrochemical, thermal, mechanical):
 1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
 2. UL 1642 (Standard for Lithium Batteries),
 3. UL 1741 or UL 62109 (inverters and power converters),
 4. Certified under the applicable electrical, building, and fire prevention codes as required.
 5. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements. Lead-acid and nickel-cadmium battery

systems installed in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76 are not required to be listed.

- b. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.
 - c. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.
8. Permit Time Frame and Abandonment
- a. The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and construction is commenced within such 24 month period. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 24 months after approval, the Applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.
 - b. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the available bond and/or security for the removal of a Tier 3 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

Section 5.10 APPENDIX 1: Commissioning Plan

The battery energy storage system commissioning plan shall comply with the Uniform Code and include, at a minimum, the following information:

1. A narrative description of the activities that will be accomplished during each phase of commissioning including the personnel intended to accomplish each of the activities.
2. A listing of the specific BESS and associated components, controls and safety related devices to be tested, a description of the tests to be performed and the functions to be tested.
3. Conditions under which all testing will be performed, which are representative of the conditions during normal operation of the system.
4. Documentation of the owner's project requirements and the basis of design necessary to understand the installation and operation of the BESS.

5. Verification that required equipment and systems are installed in accordance with the approved plans and specifications.
6. Integrated testing for all fire and safety systems.
7. Testing for any required thermal management, ventilation or exhaust systems associated with the BESS installation.
8. Preparation and delivery of operation and maintenance documentation.
9. Training of facility operating and maintenance staff.
10. Identification and documentation of the requirements for maintaining system performance to meet the original design intent during the operation phase.
11. Identification and documentation of personnel who are qualified to service, maintain and decommission the BESS, and respond to incidents involving the BESS, including documentation that such service has been contracted for.

Section 5.10 APPENDIX 2: Supplemental Guidance for Developing the Fire Safety Compliance Plan

Disclaimer: This appendix 2 is primarily based on the 2019 Energy Storage System Supplement containing amendments to the New York State Uniform Fire Prevention and Building Code, published by the New York State Department of State. The 2019 Energy Storage System Supplement can be found on the July 17, 2019 edition of the State Register, available at <https://www.dos.ny.gov/info/register/2019.html>. Should any conflicts exist between Appendix 2 and the Uniform Code, the Uniform Code requirements shall prevail.

1. **Hazard mitigation analysis.** A failure modes and effects analysis (FMEA) or other approved hazard mitigation analysis shall be provided under any of the following conditions:
 - Where BESS technologies not specifically identified in Table 1: Battery Energy Storage System Tier 2 Threshold Quantities are provided.
 - More than one BESS technology is provided in a room or enclosed area where there is a potential for adverse interaction between technologies.
 - Where allowed as a basis for increasing maximum allowable quantities outlined in Table 2: Maximum Allowable Quantities.
- 1.1. **Fault condition.** The hazard mitigation analysis shall evaluate the consequences of the following failure modes. Only single failure modes shall be considered.
 - A thermal runaway condition in a single BESS rack, module or unit.
 - Failure of any battery (energy) management system.
 - Failure of any required ventilation or exhaust system.
 - Voltage surges on the primary electric supply.
 - Short circuits on the load side of the BESS.

- Failure of the smoke detection, fire detection, fire suppression, or gas detection system.
- Required spill neutralization not being provided or failure of a required secondary containment system.

1.2. **Analysis approval.** The fire code official is authorized to approve the hazardous mitigation analysis provided the consequences of the hazard mitigation analysis demonstrate:

- Fires will be contained within unoccupied BESS rooms or areas for the minimum duration of the fire-resistance rated separations identified in Section 7.4.
- Fires in occupied work centers will be detected in time to allow occupants within the room or area to safely evacuate.
- Toxic and highly toxic gases released during fires will not reach concentrations in excess of Immediately Dangerous to Life or Health (IDLH) level in the building or adjacent means of egress routes during the time deemed necessary to evacuate occupants from any affected area.
- Flammable gases released from BESS during charging, discharging and normal operation will not exceed 25 percent of their lower flammability limit (LFL).
- Flammable gases released from BESS during fire, overcharging and other abnormal conditions will be controlled through the use of ventilation of the gases preventing accumulation or by deflagration venting.

1.3. **Additional protection measures.** Construction, equipment and systems that are required for the BESS to comply with the hazardous mitigation analysis, including but not limited to those specifically described in this Appendix shall be installed, maintained and tested in accordance with nationally recognized standards and specified design parameters.

2. **Fire Safety.** BESS installations shall comply with the requirements of this section.

2.1. **Large Scale Fire Test.** Where required elsewhere in Appendix 2, large scale fire testing shall be conducted on a representative energy storage system in accordance with UL 9540A or approved equivalent. The testing shall be conducted or witnessed and reported by an approved testing laboratory and show that a fire involving one energy storage system will not propagate to an adjacent energy storage system. In addition, the testing shall demonstrate that, where the energy storage system is installed within a room, enclosed area or walk-in energy storage system unit, a fire will be contained within the room, enclosed area or walk-in energy storage system unit for a duration equal to the fire-resistance rating of the room assemblies as specified in Section 8.4. The test report shall be provided to the fire code official for review and approval.

2.2. **Fire remediation.** Where a fire or other event has damaged the BESS and ignition or re-ignition of the BESS is possible, the system owner, agent, or lessee shall take the following actions, at their expense, to mitigate the hazard or remove damaged equipment from the premises to a safe location.

2.2.1. **Fire mitigation personnel.** Where, in the opinion of the building inspector, it is essential for public safety that trained personnel be on site to respond to possible ignition or re-ignition of a damaged BESS, the system owner, agent or lessee shall immediately dispatch one or more fire mitigation personnel to the premise, as required and approved, at their expense. These personnel shall remain on duty continuously after the fire department leaves the premise until the damaged energy storage equipment is removed from the premises, or earlier if the fire code official indicates the public safety hazard has been abated. On-duty fire mitigation personnel shall have the following responsibilities:

- Keep diligent watch for fires, obstructions to means of egress and other hazards.
- Immediately contact the fire department if their assistance is needed to mitigate any hazards or extinguish fires.
- Take prompt measures for remediation of hazards in accordance with the decommissioning plan
- Take prompt measures to assist in the evacuation of the public from the structures.

2.2.2. **Peer Review.** Where required by the Town, the owner or the owner's authorized agent shall be responsible for retaining and furnishing the services of a registered design professional or special expert, who will perform as a peer reviewer, subject to the approval of the fire code official. The costs of special services shall be borne by the owner or the owner's authorized agent.

2.2.2.1. **Special expert.** Where the scope of work is limited or focused in an area that does not require the services of a registered design professional or the special knowledge and skills associated with the practice of architecture or engineering, an approved special expert may be employed by the owner or the owner's authorized agent as the person in responsible charge of the limited or focused activity. The scope of work of a special expert shall be limited to the area of expertise as demonstrated in the documentation submitted to the fire code official for review and approval. Special experts are those individuals who possess the following qualifications:

1. Has credentials of education and experience in an area of practice that is needed to evaluate risks and safe operations associated with the design, operation and special hazards of energy storage systems.
2. Licensing or registration, when required by any other applicable statute, regulation, or local law or ordinance.

3. **Battery energy storage management system.** Where required by the BESS listing an approved energy storage management system shall be provided that monitors and balances cell voltages, currents and temperatures within the manufacturer's specifications. The system shall disconnect electrical connections to the BESS or otherwise place it in a safe condition if potentially hazardous temperatures or other conditions such as short circuits, over voltage or

under voltage are detected.

4. **Enclosures.** Enclosures of BESS shall be of noncombustible construction.
5. **General installations requirements.** BESS shall comply with the requirements of Sections 5.1 through 5.12.
 - 5.1. **Electrical disconnects.** Where the BESS disconnecting means is not within sight of the main electrical service disconnecting means, placards or directories shall be installed at the location of the main electrical service disconnecting means indicating the location of stationary storage battery system disconnecting means in accordance with NFPA 70. **Exception:** Electrical disconnects for lead acid and nickel cadmium battery systems at facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC shall be permitted to have electrical disconnects signage in accordance with NFPA 76.
 - 5.2. **Working clearances.** Access and working space shall be provided and maintained about all electrical equipment to permit ready and safe operation and maintenance of such equipment in accordance with NFPA 70 and the manufacturer's instructions.
 - 5.3. **Fire-resistance rated separations.** Rooms and other indoor areas containing BESS shall be separated from other areas of the building in accordance with Section 8.4. BESS shall be permitted to be in the same room with the equipment they support.
 - 5.4. **Seismic and structural design.** Stationary BESS shall comply with the seismic design requirements in Chapter 16 of the International Building Code, and shall not exceed the floor loading limitation of the building.
 - 5.5. **Vehicle impact protection.** Where BESS are subject to impact by a motor vehicle, including fork lifts, vehicle impact protection shall be provided in accordance with Fire Code Section 312.
 - 5.6. **Combustible storage.** Combustible materials shall not be stored in BESS rooms, areas, or walk-in units. Combustible materials in occupied work centers covered by Section 5.10 shall be stored at least 3 feet (914 mm) from BESS cabinets.
 - 5.7. **Toxic and highly toxic gases.** BESS that have the potential to release toxic and highly toxic gas during charging, dis-charging and normal use conditions shall be provided with a hazardous exhaust system in accordance with Section 502.8 of the International Mechanical Code.
 - 5.8. **Signage.** Approved signs shall be provided on or adjacent to all entry doors for BESS rooms or areas and on enclosures of BESS cabinets and walk-in units located outdoors, on rooftops or in open parking garages. Signs designed to meet both the requirements of this section and NFPA 70 shall be permitted. The signage shall include the following or equivalent.

- "Energy Storage System", "Battery Storage System", "Capacitor Energy Storage System", or the equivalent.
- The identification of the electrochemical BESS technology present.
- "Energized electrical circuits"
- If water reactive electrochemical BESS are present the signage shall include "APPLY NO WATER"
- Current contact information, including phone number, for personnel authorized to service the equipment and for fire mitigation personnel required by Section 2.2.

Exception: Existing electrochemical BESS shall be permitted to include the signage required at the time they were installed.

5.9. **Security of installations.** Rooms, areas and walk-in units in which electrochemical BESS are located shall be secured against unauthorized entry and safe-guarded in an approved manner. Security barriers, fences, landscaping, and other enclosures shall not inhibit the required air flow to or exhaust from the electrochemical BESS and its components.

5.10. **Occupied work centers.** Electrochemical BESS located in rooms or areas occupied by personnel not directly involved with maintenance, service and testing of the systems shall comply with the following.

- Electrochemical BESS located in occupied work centers shall be housed in locked noncombustible cabinets or other enclosures to prevent access by unauthorized personnel.
- Where electrochemical BESS are contained in cabinets in occupied work centers, the cabinets shall be located within 10 feet (3048 mm) of the equipment that they support.
- Cabinets shall include signage complying with Section 5.8.

5.11. **Open rack installations.** Where electrochemical BESS are installed in a separate equipment room and only authorized personnel have access to the room, they shall be permitted to be installed on an open rack for ease of maintenance.

5.12. **Walk-in units.** Walk-in units shall only be entered for inspection, maintenance and repair of BESS units and ancillary equipment, and shall not be occupied for other purposes.

6. **Electrochemical BESS Protection.** The protection of electrochemical BESS shall be in accordance with 6.1 through 6.8 where required by Sections 8 through 10.

6.1. **Size and separation.** Electrochemical BESS shall be segregated into groups not exceeding 50 kWh (180 Mega joules). Each group shall be separated a minimum three feet (914 mm) from other groups and from walls in the storage room or area. The storage arrangements shall comply with Fire Code Chapter 10.

Exceptions:

- Lead acid and nickel cadmium battery systems in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76.
- The fire code official is authorized to approve larger capacities or smaller separation distances based on large scale fire testing.

6.2. **Mixed electrochemical energy systems.** Where rooms, areas and walk-in units contain different types of electrochemical energy technologies, the total aggregate quantities of the systems shall be determined based on the sum of percentages of each technology type quantity divided by the maximum allowable quantity of each technology type. The sum of the percentages shall not exceed 100 percent of the maximum allowable quantity.

6.3. **Elevation.** Electrochemical BESS shall not be located in the following areas:

- Where the floor is located more than 75 feet (22 860 mm) above the lowest level of fire department vehicle access, or
- Where the floor is located below the lowest level of exit discharge.

Exceptions:

- Lead acid and Nickel cadmium battery systems less than 50 VAC and 60 VDC installed in facilities under the exclusive control of communications utilities in accordance with NFPA 76.
- Where approved, installations shall be permitted in underground vaults complying with NFPA 70, Article 450, Part III.
- Where approved by the fire code official, installations shall be permitted on higher and lower floors.

Section 5.10 TABLE 2: MAXIMUM ALLOWABLE QUANTITIES

Technology	Maximum Allowable Quantities ^a
Lead-acid, all types	Unlimited
Nickel-cadmium (Ni-Cd)	Unlimited
Nickel metal hydride (Ni-MH)	Unlimited
Lithium-ion	600 kWh
Flow batteries ^b	600 kWh
Other battery technologies	200 kWh

a. For electrochemical energy storage system units rated in Amp-Hours, kWh shall equal rated voltage times the Amp-hour rating divided by 1000

b. Shall include vanadium, zinc-bromine, polysulfide-bromide, and other flowing electrolyte type technologies

6.4. **Fire detection.** An approved automatic smoke detection system or radiant energy-sensing fire detection system complying with Fire Code Section 907 shall be installed in rooms, indoor areas, and walk-in units containing electrochemical BESS. An approved radiant energy-sensing fire detection system shall be installed to protect open parking garage and rooftop installations. Alarm signals from detection systems shall be

transmitted to a central station, proprietary or remote station service in accordance with NFPA 72, or where approved to a constantly attended location.

6.4.1. **System status.** Where required by the fire code official, visible annunciation shall be provided on cabinet exteriors or in other approved locations to indicate that potentially hazardous conditions associated with the BESS exist.

6.5. **Fire suppression systems.** Rooms and areas within buildings and walk-in units containing electrochemical BESS shall be protected by an automatic fire suppression system designed and installed in accordance with one of the following:

- An automatic sprinkler system designed and installed in accordance with Fire Code Section 903.3.1.1 with a minimum density of 0.3 gpm/ft.² based on the fire area or 2,500 ft.² design area, whichever is smaller.
- Where approved, an automatic sprinkler system designed and installed in accordance with Fire Code Section 903.3.1.1 with a sprinkler hazard classification based on large scale fire testing.
- The following alternate automatic fire extinguishing systems designed and installed in accordance with Fire Code Section 904, provided the installation is approved by the fire code official based on large scale fire testing
 - NFPA 12, Standard on Carbon Dioxide Extinguishing Systems
 - NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection
 - NFPA 750, Standard on Water Mist Fire Protection Systems
 - NFPA 2001, Standard on Clean Agent Fire Extinguishing Systems
 - NFPA 2010, Standard for Fixed Aerosol Fire-Extinguishing Systems

Exception: Fire suppression systems for lead acid and nickel cadmium battery systems at facilities under the exclusive control of communications utilities that operate at less than 50 VAC and 60 VDC shall be provided where required by NFPA 76.

6.5.1. **Water reactive systems.** Electrochemical BESS that utilize water reactive materials shall be protected by an approved alternative automatic fire-extinguishing system in accordance with Fire Code Section 904, where the installation is approved by the fire code official based on large scale fire testing.

6.6. **Maximum enclosure size.** Outdoor walk-in units housing BESS shall not exceed 53 feet by 8 feet by 9.5 feet high, not including bolt-on HVAC and related equipment, as approved. Outdoor walk-in units exceeding these limitations shall be considered indoor installations and comply with the requirements in Section 8.

6.7. **Vegetation control.** Areas within 10 feet (3 m) on each side of outdoor BESS shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire.

6.8. **Means of egress separation.** BESS located outdoors and in open parking garages shall be separated from any means of egress as required by the fire code official to ensure safe egress under fire conditions, but in no case less than 10 feet (3048 mm).

Exception: The fire code official is authorized to approve a reduced separation distance if large scale fire testing is provided that shows that a fire involving the BESS will not adversely impact occupant egress.

7. **Electrochemical BESS technology specific protection.** Electrochemical BESS installations shall comply with the requirements of this section in accordance with the applicable requirements of Table 3.

Section 5.10 TABLE 3 ELECTROCHEMICAL BESS TECHNOLOGY SPECIFIC

Compliance Required ^b	Battery Technology				Other BESS and Battery Technologies ^b
	Lead-acid	Ni-Cad & Ni-MH	Lithium-ion	Flow	
7.1 Exhaust ventilation	Yes	Yes	No	Yes	Yes
7.2 Spill control and neutralization	Yes ^c	Yes ^c	No	Yes	Yes
7.3 Explosion control	Yes ^a	Yes ^a	Yes	Yes	Yes
7.4 Safety Caps	Yes	Yes	No	Yes	Yes
7.5 Thermal runaway	Yes ^d	Yes	Yes ^e	Yes	Yes ^e

a. Not required for lead-acid and nickel cadmium batteries at facilities under the exclusive control of communications utilities that comply with NFPA 76 and operate at less than 50 VAC and 60 VDC.

b. Protection shall be provided unless documentation acceptable to the fire code official is provided that provides justification why the protection is not necessary based on the technology used.

c. Applicable to vented (i.e. flooded) type nickel cadmium and lead acid batteries.

d. Not required for vented (i.e. flooded) type lead acid batteries.

e. The thermal runaway protection is permitted to be part of a battery management system that has been evaluated with the battery as part of the evaluation to UL 1973.

7.1. **Exhaust ventilation.** Where required by Table 3 or elsewhere in this code, exhaust ventilation of rooms, areas, and walk-in units containing electrochemical BESS shall be provided in accordance with the International Mechanical Code and Section 7.1.1 or 7.1.2.

7.1.1. **Ventilation based upon LFL.** The exhaust ventilation system shall be designed to limit the maximum concentration of flammable gas to 25 percent of the lower flammable limit (LFL) of the total volume of the room, area, or walk-in unit during the worst-case event of simultaneous charging of batteries at the maximum charge rate, in accordance with nationally recognized standards.

7.1.2. **Ventilation based upon exhaust rate.** Mechanical exhaust ventilation shall be provided at a rate of not less than 1 ft³/min/ft² (5.1 L/sec/m²) of floor area of the

room, area, or walk-in unit. The ventilation shall be either continuous or shall be activated by a gas detection system in accordance with Section 7.1.2.4.

7.1.2.1. **Standby power.** Mechanical exhaust ventilation shall be provided with a minimum of two hours of standby power in accordance with Fire Code Section 604.2.17.

7.1.2.2. **Installation instructions.** Required mechanical exhaust ventilation systems shall be installed in accordance with the manufacturer's installation instructions and the International Mechanical Code.

7.1.2.3. **Supervision.** Required mechanical exhaust ventilation systems shall be supervised by an approved supervising station in accordance with NFPA 72.

7.1.2.4. **Gas detection system.** Where required by Section 7.1.2, rooms, areas, and walk-in units containing BESS shall be protected by an approved continuous gas detection system that complies with Fire Code Section 916 and with the following:

- The gas detection system shall be designed to activate the mechanical ventilation system when the level of flammable gas in the room, area, or walk-in unit exceeds 25 percent of the LFL.
- The mechanical ventilation system shall remain on until the flammable gas detected is less than 25 percent of the LFL.
- The gas detection system shall be provided with a minimum of 2 hours of standby power in accordance with Fire Code Section 916.
- Failure of the gas detection system shall annunciate a trouble signal at an approved supervising station in accordance with NFPA 72.

7.2. **Spill control and neutralization.** Where required by Table 3 or elsewhere in this code, areas containing free-flowing liquid electrolyte or hazardous materials shall be provided with spill control and neutralization in accordance with this section.

7.2.1. **Spill control.** Spill control shall be provided to prevent the flow of liquid electrolyte or hazardous materials to adjoining rooms or areas. The method shall be capable of containing a spill from the single largest battery or vessel.

7.2.2. **Neutralization.** An approved method to neutralize spilled liquid electrolyte shall be provided that is capable of neutralizing a spill from the largest battery or vessel to a pH between 5.0 and 9.0.

Exception: The requirements of Section 7.2 only apply where the aggregate capacity of multiple vessels exceeds 1,000 gallons (3785 L) for lead-acid and nickel-cadmium battery systems operating at less than 50 VAC and 60 VDC that are located at facilities under the exclusive control of communications utilities and those facilities comply with NFPA 76 in addition to applicable requirements of this code.

7.3. **Explosion control.** Where required by Table 3 or elsewhere in this code, explosion control complying with Fire Code Section 911 shall be provided for rooms, areas or walk-in units containing electrochemical BESS technologies.

Exceptions:

- Where approved, explosion control is permitted to be waived by the fire code official based on large scale fire testing which demonstrates that flammable gases are not liberated from electrochemical BESS cells or modules.
- Where approved, explosion control is permitted to be waived by the fire code official based on documentation provided that demonstrates that the electrochemical BESS technology to be used does not have the potential to release flammable gas concentrations in excess of 25 percent of the LFL anywhere in the room, area, walk-in unit or structure under thermal runaway or other fault conditions.

7.4. **Safety caps.** Where required by Table 3 or elsewhere in this code, vented batteries and other BESS shall be provided with flame-arresting safety caps.

7.5. **Thermal runaway.** Where required by Table 3 or elsewhere in this code, batteries and other BESS shall be provided with a listed device or other approved method to prevent, detect and minimize the impact of thermal runaway.

8. **Indoor installations.** Indoor BESS installations shall be in accordance with Sections 8.1 through 8.4.

8.1. **Dedicated use buildings.** For the purpose of Table 4 dedicated use BESS buildings shall be classified as Group F-1 occupancies and comply with all the following:

- The building shall only be used for BESS, electrical energy generation, and other electrical grid related operations.
- Occupants in the rooms and areas containing BESS are limited to personnel that operate, maintain, service, test and repair the BESS and other energy systems.
- No other occupancy types shall be permitted in the building.
- Administrative and support personnel shall be permitted in areas within the buildings that do not contain BESS, provided:
 - The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - A means of egress is provided from the incidental use areas to the public way that does not require occupants to traverse through areas containing BESS or other energy system equipment.

8.2. **Non-dedicated use buildings.** For the purpose of Table 4 non-dedicated use buildings include all buildings that contain BESS and do not comply with 8.1 dedicated use building requirements.

Section 5.10 TABLE 4 INDOOR BESS INSTALLATIONS

Compliance Required	Dedicated Use	Non-Dedicated Use
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	Buildings^a	Buildings^b
5. General Installation Requirements	Yes	Yes
6.1. Size and separation	Yes	Yes
6.3. Elevation	Yes	Yes
6.4. Smoke and automatic fire detection	Yes ^c	Yes
6.5. Fire suppression systems	Yes ^d	Yes
8.3. Dwelling units and sleeping units	NA	Yes
8.4. Fire-resistance rated separations	Yes	Yes
7. Technology specific protection	Yes	Yes

a. See Section 8.1.

b. See Section 8.2.

c. Where approved by the fire code official, alarm signals are not required to be transmitted to a central station, proprietary or remote station service in accordance with NFPA 72, or a constantly attended location where local fire alarm annunciation is provided and trained personnel are always present.

d. Where approved by the fire code official, fire suppression systems are permitted to be omitted in dedicated use buildings located more than 100 feet (30.5 M) from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high piled stock and other exposure hazards.

8.3. Dwelling units and sleeping units. BESS shall not be installed in sleeping units or in habitable spaces of dwelling units.

8.4. Fire-resistance rated separations. Rooms and areas containing BESS shall include fire-resistance rated separations as follows:

- In dedicated use buildings, rooms and areas containing BESS shall be separated from areas in which administrative and support personnel are located.
- In non-dedicated use buildings, rooms and areas containing BESS shall be separated from other areas in the building.

Separation shall be provided by 2 hour rated fire barriers constructed in accordance with Section 707 of the International Building Code and 2 hour rated horizontal assemblies constructed in accordance with Section 711 of the International Building Code, as appropriate.

9. Outdoor installations. Outdoor installations shall be in accordance with Sections 9.1 through 9.3. Exterior wall installations for individual BESS units not exceeding 20 kWh shall be in accordance with 9.4.

9.1. Remote outdoor installations. For the purpose of Table 5, remote outdoor installations include BESS located more than 100 feet (30.5 M) from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high piled stock and other

exposure hazards.

9.2. **Installations near exposures.** For the purpose of Table 5, installations near exposures include all outdoor BESS installations that do not comply with 9.1 remote outdoor location requirements.

Section 5.10 TABLE 5 OUTDOOR BESS INSTALLATIONS

Compliance Required	Remote Installations ^a	Installations Near Exposures ^b
5. General Installation Requirements	Yes	Yes
6.1 Size and separation	No	Yes ^c
6.4. Smoke and automatic fire detection	Yes	Yes
6.5. Fire suppression systems	Yes ^d	Yes
6.6. Maximum enclosure size	Yes	Yes
6.7. Vegetation control	Yes	Yes
6.8. Means of egress separation	Yes	Yes
9.3. Clearance to exposures	Yes	Yes
7. Technology specific protection	Yes	Yes

a. See Section 9.1.

b. See Section 9.2.

c. In outdoor walk-in units, spacing is not required between BESS units and the walls of the enclosure.

d. Where approved by the fire code official, fire suppression systems are permitted to be omitted.

9.3. **Clearance to exposures.** BESS located outdoors shall be separated by a minimum ten feet (3048 mm) from the following exposures:

- Lot lines
- Public ways
- Buildings
- Stored combustible materials
- Hazardous materials
- High-piled stock
- Other exposure hazards

Exceptions:

- Clearances are permitted to be reduced to 3 feet (914 mm) where a 1-hour free standing fire barrier, suitable for exterior use, and extending 5 feet (1.5 m) above and extending 5 feet (1.5 m) beyond the physical boundary of the BESS installation is provided to protect the exposure.
- Clearances to buildings are permitted to be reduced to 3 feet (914 mm) where noncombustible exterior walls with no openings or combustible overhangs are provided on the wall adjacent to the BESS and the fire-resistance rating of the exterior wall is a minimum 2 hours.

- Clearances to buildings are permitted to be reduced to 3 feet (914.4 mm) where a weatherproof enclosure constructed of noncombustible materials is provided over the BESS, and it has been demonstrated that a fire within the enclosure will not ignite combustible materials outside the enclosure based on large scale fire testing.

9.4. **Exterior wall installations.** BESS shall be permitted to be installed outdoors on exterior walls of buildings when all of the following conditions are met:

- The maximum energy capacity of individual BESS units shall not exceed 20 kWh.
- The BESS shall comply with applicable requirements in this Appendix.
- The BESS shall be installed in accordance with the manufacturer's instructions and their listing.
- Individual BESS units shall be separated from each other by at least three feet (914 mm).
- The BESS shall be separated from doors, windows, operable openings into buildings, or HVAC inlets by at least five feet (1524 mm)

Exception: Where approved smaller separation distances in items 4 and 5 shall be permitted based on large scale fire testing.

10. **Special installations.** Rooftop and open parking garage BESS installations shall comply with Sections 10.1 through 10.6.

10.1. **Rooftop installations.** For the purpose of Table 6, rooftop BESS installations are those located on the roofs of buildings.

10.2. **Open parking garage installations.** For the purpose of Table 6, open parking garage BESS installations are those located in a structure or portion of a structure that complies with Section 406.5 of the International Building Code.

Section 5.10 TABLE 6 SPECIAL BESS INSTALLATIONS

Compliance Required	Rooftops ^a	Open Parking Garages ^b
5. General Installation Requirements	Yes	Yes
6.1. Size and separation	Yes	Yes
6.4. Smoke and automatic fire detection	Yes	Yes
6.6. Maximum enclosure size	Yes	Yes
6.8. Means of egress separation	Yes	Yes
10.3. Clearance to exposures	Yes	Yes
10.4. Fire suppression systems	Yes	Yes
10.5. Rooftop installations	Yes	No
10.6. Open parking garage installations	No	Yes
7. Technology specific protection	Yes	Yes

a. See Section 10.1.

b. See Section 10.2.

10.3. **Clearance to exposures.** BESS located on rooftops and in open parking garages shall be separated by a minimum ten feet (3048 mm) from the following exposures:

- Buildings, except the building on which rooftop BESS is mounted
- Any portion of the building on which a rooftop system is mounted that is elevated above the rooftop on which the system is installed
- Lot lines
- Public ways
- Stored combustible materials
- Locations where motor vehicles can be parked
- Hazardous materials
- Other exposure hazards

Exceptions:

- Clearances are permitted to be reduced to 3 feet (914 mm) where a 1-hour free standing fire barrier, suitable for exterior use, and extending 5 feet (1.5 m) above and extending 5 feet (1.5 m) beyond the physical boundary of the BESS installation is provided to protect the exposure.
- Clearances are permitted to be reduced to 3 feet (914.4 mm) where a weatherproof enclosure constructed of noncombustible materials is provided over the BESS and it has been demonstrated that a fire within the enclosure will not ignite combustible materials outside the enclosure based on large scale fire testing.

10.4. **Fire suppression systems.** BESS located in walk-in units on rooftops or in walk-in units in open parking garages shall be provided with automatic fire suppression systems within the BESS enclosure in accordance with Section 6.5. Areas containing BESS other than walk-in units in open parking structures on levels not open above to the sky shall be provided with an automatic fire suppression system complying with Section 6.5.

Exception: A fire suppression system is not required in open parking garages if large scale fire testing is provided that shows that a fire will not impact the exposures in Section 10.3.

10.5. **Rooftop installations.** BESS and associated equipment that are located on rooftops and not enclosed by building construction shall comply with the following:

- Stairway access to the roof for emergency response and fire department personnel shall be provided either through a bulkhead from the interior of the building or a stairway on the exterior of the building.
- Service walkways at least 5 feet (1524 mm) in width shall be provided for service and emergency personnel from the point of access to the roof to the system.
- BESS and associated equipment shall be located from the edge of the roof a distance equal to at least the height of the system, equipment, or component but not less than 5 feet (1.5 m).
- The roofing materials under and within 5 feet (1524 mm) horizontally from a BESS or associated equipment shall be noncombustible or shall have a Class A rating when tested in accordance with ASTM E108 or UL 790.
- A Class I standpipe outlet shall be installed at an approved location on the roof level of the building or in the stairway bulkhead at the top level.

- The BESS shall be the minimum of 10 feet from the fire service access point on the roof top.
- The BESS shall not be located within 50 feet (15,240 mm) of air inlets for building HVAC systems.
Exception: This distance shall be permitted to be reduced to 25 feet (7,620 mm) if the automatic fire alarm system monitoring the radiant-energy sensing detectors deenergizes the ventilation system connected to the air intakes upon detection of fire.

10.6. **Open parking garages.** BESS and associated equipment that are located in open parking garages shall comply with all of the following:

- BESS shall not be located within 50 feet (15,240 mm) of air inlets for building HVAC systems.
Exception: This distance shall be permitted to be reduced to 25 feet (7,620 mm) if the automatic fire alarm system monitoring the radiant-energy sensing detectors de-energizes the ventilation system connected to the air intakes upon detection of fire.
- BESS shall not be located within 25 feet (7,620 mm) of exits leading from the attached building where located on a covered level of the parking structure not directly open to the sky above.
- An approved fence with a locked gate or other approved barrier shall be provided to keep the general public at least five feet (1,024 mm) from the outer enclosure of the BESS.

Section 5.10 APPENDIX 3: Operation and Maintenance Manual

The Operation and Maintenance Manual shall be provided to both the BESS owner and their operator before the battery energy storage system is put into operation. The energy storage system shall be operated and maintained in accordance with the manual and a copy of the documentation shall be retained at an approved onsite location to be accessible to facility personnel, fire code officials, and emergency responders.

In addition to complying with the Uniform Code, the battery energy storage system Operation and Maintenance Manual shall, at a minimum, include design, construction, installation, testing and commissioning information associated with the battery energy storage system as initially approved after being commissioned, as well as the following information:

1. Manufacturer's operation manuals and maintenance manuals for the entire BESS or for each component of the system requiring maintenance, that clearly identify the required routine maintenance actions.
2. Name, address and phone number of a service agency that has been contracted to service the BESS and its associated safety systems.

3. Maintenance and calibration information, including wiring diagrams, control drawings, schematics, system programming instructions and control sequence descriptions, for all energy storage control systems.
4. Desired or field-determined control set points that are permanently recorded on control drawings at control devices or, for digital control systems in system programming instructions.
5. A schedule for inspecting and recalibrating all BESS controls.
6. A service record log form that lists the schedule for all required servicing and maintenance actions and space for logging such actions that are completed over time and retained on site.
7. Inspection and testing records

Section 5.10 APPENDIX 4: Emergency Operations Plan

An emergency operations plan shall include the following information:

- a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
- c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

- g. Other procedures as determined necessary by the Town to provide for the safety of occupants and emergency responders.
- h. Procedures and schedules for conducting drills of these procedures.

ARTICLE VI SITE PLAN REVIEW

6.10 Authorization of Planning Board to Review Site Plans. The planning board is hereby authorized to review and with modifications, or disapprove site plans for new land uses within the town as hereinafter designated pursuant to and In accordance with the standards and procedures set forth in this Article.

6.11 Applicability of Review Requirements

All new land use activities within the town designated in Section 2.20 hereof shall require site plan review and approval before being undertaken, except the following:

1. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law
2. Ordinary repair or maintenance of interior alterations to existing structure or uses, provided there is no change of use;
3. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25 percent;
4. Non-structural agriculture or gardening use not involving substantial time cutting;
5. Structures under 100 square feet in size, except signs and fences reviewable under this local law;
6. Signs expressly exempted from review by section 4.070 hereof;
7. The sale of agricultural produce and temporary structures related to the sale of agricultural produce;
8. Garage, lawn and porch sales not exceeding three days in duration provided prior such sales have not taken place on the property except on an occasional basis;
9. Single Family dwellings 1,800 square feet or less not including garages, carports, porches, cellars, or uninhabitable basements or attics. In addition, residential garages and other accessory buildings less than 1000 square feet. June 14, 2001 amendment.

6.12 Activities Requiring Site Plan Review: Any use or structure to be conducted, maintained or constructed wholly or partially within the Town shall be reviewable under this local law except as specifically excluded from review under this Article.

1. In addition, the following land use activities shall require site plan review and

approval by the Town Planning Board:

- a. Travel trailer parks and campground;
- b. Mobile home parks;
- c. Subdivision of land into five or more lots, or any resubdivision of land;
- d. Any "Type 1" action as defined under Article 8 of the Environmental Conservation Law. "State Environmental Quality Review Act" and part 617, Volume 6 of the New York Code of Rules and Regulations (Title 6);
- e. Any use located within a designated flood plain;
- f. Any use within a designated freshwater wetland;
- g. Single family dwellings and garages located along waterfront propellies regardless of size;
- h. Any land filling, grading or removal of vegetation such as trees and shrubs that disturbs more than 5,000 square feet of land.

6.20 Relationship of this Article to other laws and regulations. This Article in no way affect the provisions or requirement of any other, federal, state or local law or regulations. Where this Article is in conflict with any other such law or regulation, the more restrictive shall apply.

6.30 Site Plan Review: Procedures. Activities requiring approval under this Article shall be reviewed according to the procedures set forth in this Article. Any person uncertain as to the applicability of this law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.

6.40 Application Requirements. Applications for site plan review and approval shall be made to the Planning Board at the Community building in the Town of Ticonderoga. Applications shall consist of the following, unless specifically waived by the Planning Board:

1. Two copies of a site plan, to include where applicable:
 - a. Location map showing boundaries and dimensions of the parcel or tract of land involved. Identification of contiguous properties, and any known easements or rights-of-way and roadways.
 - b. Existing features of the site including existing land and water areas, existing buildings and water or sewer systems on or immediately adjacent to the site.
 - c. Delineation of proposed location and arrangements of buildings or uses on the site, including means of ingress and egress, parking and circulation.
 - d. Sketch of ruly proposed building or structure or sign including exterior dimensions and elevations of front, side, and rear view.
2. Accompanying data, to include the following:
 - a. Application form and fee (if required by Planning Board regulations).
 - b. Name and address of applicant and any professional advisors.
 - c. Copy of the deed to the property in question if requested by the Planning Board.
 - d. Authorization of owner if applicant is not the owner of the property in question.
 - e. Description of exterior finish materials

- f. Such addition information as the Planning Board or enforcement officer may reasonably require to assess the proposed project, including scale drawings where necessary.

6.50 Planning Board Review and Decision

1. Within thirty calendar days of receipt of a complete application, the Planning Board shall approve the application; approve it with modification, at the request of the applicant, or on its own motion. If a public hearing is held, the Planning Board shall within sixty-two days of the completion of the hearing approve, with modifications or disapprove the application. In no case shall an application be disapproved without a public hearing first having been held. Amended April 12, 2001.
2. In determining whether or not in its discretion to hold a public bearing on a given application, the Planning Board shall consider the size and complexity of the proposed activity, the level of public interest in the application and the possibility of a disapproval.
3. In the event the planning board decides to hold a public hearing, such public hearing shall be held within sixty-two days from the day an application is received. The planning board shall mail notice of said hearing to the applicant at least ten days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the town at least five days prior to the date thereof and shall make a decision on the application within sixty-two days after such hearing, or after the day the application is received if no hearing has been held. The time within which the planning board must render its decision may be extended by mutual consent of the applicant and such board. The decision of the planning board shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.
4. The time periods within which Planning Board actions are required by this section are the maximum times allowable; the Planning Board shall act as quickly as possible in reviewing and approving site plan applications in order to minimize delays to applicants. Under certain circumstances, however, the maximum allowable time period within which the Planning Board must render its decision upon a completed application may be extended by the Planning Board for an additional period of fifteen days or as otherwise mutually agreed upon by the Planning Board and the applicant.
5. In reviewing site plan applications, the Planning Board shall apply the review considerations and standards of this Article. In no case shall an application be approved with modifications unless it reasonably complies with such considerations and standards.
6. Planning Board decisions shall be in writing and may include reasonable conditions to further the ends of this local law. Reasons for any disapproval shall be clearly stated.

6.60 Appeal of Planning Board Decision. Any person aggrieved by any decision of the planning board or any officer, department, board or bureau of the town, 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 days after the filing of a decision in the Office of the Town Clerk.

6.70 Site Plan Review: Considerations and Standards. The considerations and standards set forth in this Article, where reasonably applicable, shall be applied by the Planning Board in its review of site plan applications.

6.80 General Considerations and Standards

1. Water
 - a. Maintain existing water quality.
 - b. Minimize disruption of existing drainage and runoff patterns.
 - c. Preserve quality, infiltration rate, and levels of ground water.
2. Land
 - a. Minimize topographic alterations
 - b. Prevent accelerated soil erosion and the potential for earth slippage
 - c. Use care in development in floodplains
 - d. Conserve viable agricultural soils.
 - e. Conserve productive forest lands
 - f. Maintain the open space character of the project site, adjacent land and surrounding areas.
3. Maintain existing air quality.
4. Limit additions to noise levels.
5. Sensitive Resource Areas
 - a. Preserve rare plant communities.
 - b. Minimize development which adversely affects habitats of rare or endangered wildlife species.
 - c. Use care in development in wetlands.
 - d. Protect unique natural features, including gorges, waterfalls, and geologic formations for the encroachment of man-related development.
6. Aesthetics
 - a. Minimize adverse impact upon the exiting aesthetic qualities of the project site and its environs.
 - b. Preserve scenic vistas.
 - c. Protect historic or archaeological sites
 - d. Minimize adverse effect of new development with the character of adjoining and nearby land uses.
 - e. Design and construct parking areas and driveways to provide safe, convenient, and aesthetically pleasing access to and from public highways.
7. Governmental and Service Considerations and Standards consider the ability of government to provide governmental facilities and services which may be made necessary for the projects.

6.80 Lot Consideration and Standards

1. Off-street parking should be provided on the site in sufficient quantity for occupants and/or users of the proposed structure.
2. No on-site surface or groundwater drainage system in connection with the construction or alteration of any building, structure or natural landform shall be located or constructed in such a manner as to intensify runoff in an unacceptable manner, pollute, or cause erosion on adjoining properties. Surface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds or pools. Surface drainage shall be conveyed to an existing system of storm water disposal where available and all surface drainage shall be designed so as not to discharge onto walkways, the street, or adjacent property in such a manner as to create a nuisance or hazard
3. Any person who shall construct, create, or install an entrance, road, drive or similar entryway to a state or county highway in the town shall first obtain authorization of the property authority having jurisdiction thereover, and shall present evidence of such approval.

6.9 Shoreline Considerations and Standards

1. All construction on any shoreline shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shorelines
2. Any bulk storage of petroleum products within one hundred feet of the shoreline, or within a reasonable setback as determined necessary by the Planning Board, shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such manner so as to afford adequate protection.
3. Any paved or otherwise improved parking, loading or service area within one hundred feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.
4. Nothing herein provided shall waive or otherwise affect any requirement of the N.Y.S. Department of Environmental Conservation under Article 15, Title 5 of the Environmental Conservation Law.
5. Nothing herein provided shall waive or otherwise affect any requirement of the Wild, Scenic, and Recreational rivers System Act.

6.10 Water Supply considerations and standards

1. Any individual water supply system shall be located at least one hundred feet distant from any title field or seepage pit, fifty feet from any septic tank, twenty-

five feet from the edge of the driving surface of any highway, open ditch or natural drainage way, and ten feet from any lot line.

2. Any drilled, point-driven or dug well shall comply with those generally accepted standards of the New York State Department of Health.

6.11 Sanitary Considerations and Standards

1. No on-site sewage tile field or seepage pit shall be located within one hundred feet of any shoreline and no septic or other holding tank shall be located within fifty feet of any shoreline, as measured from the normal annual high water mark of the water body
2. Every on-lot sewage disposal system shall comply with the standards as to type, capacity, location, layout and minimum lot size of the New York State Department of Health as set forth in the booklet entitled "Waste Treatment Handbook: Individual Household Systems" and, where applicable, the New York State Department of Environmental Conservation from time to time in effect (whether or not the construction of such a system is and shall also comply with the provisions of this law. In case of conflict between the requirement of the Department of Health or the Department of Environmental Conservation and this law the more restrictive shall prevail.
3. In submitting an application for site plan review and approval for any building with indoor plumbing facilities the applicant shall submit information concerning the precise location of the on-lot sewage disposal system and drainage field, the slope of the land in the area of such system and drainage field, the distance from any lake, pond, swamp, marsh, stream drainage ditch or culvert and an appropriate percolation test performed in conformity with the Department of Health and/or the Department of Environmental Conservation requirements, the size of the proposed septic tank, the layout and design of the proposed drainage field or seepage pit and such other information as the Planning Board may reasonably request. Such information shall be submitted in such form and manner as the Planning Board may reasonably require.

6.12 Signs

1. Sign Consideration and Standard Refer to Attached illustrative page.
2. The Planning board, in reviewing a sign requiring its plan review and assessing its impact upon the Town, shall consider the reasonableness of the proposed sign's size, height, type of illumination (if any) and proximity to the edge of any highway. The Board shall also consider the type of materials and coloration of the proposed sign, as well as the number of area signs related to the same purpose and the number of signs already located on the property in question. The Planning Board in its review of signs shall minimize impact upon the town and may approve or disapprove proposed signs or require reasonable modifications that would still allow the proposed sign to achieve its intended purpose.
3. Design and Location of Signs:

4. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving lights. All Luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity
5. No sign shall be placed upon or be supported by any water body or any tree, rock, or other natural object rather than the ground. Amended April 12, 2001.

ARTICLE VII SPECIAL USE PERMITS

7.13 Special Use Permits. Pursuant to an in accordance with Town Law Section 274-B, the Planning Board is empowered to grant, deny, or grant with conditions or modifications, special use permits for uses set forth in this Zoning Law which are designated as requiring a special or conditional use permit.

1. General provisions: The special use for which conformation with additional standards is required by this law shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements of this law. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
2. Required Maps and Plans: An area map, showing the location of the property on which the special use is proposed with respect to surrounding property, streets and other important features and a plan for the proposed development of a site for a permitted special use, shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features, and any other pertinent information, including such information about neighboring properties as may be necessary to determine and provide for the enforcement of this ordinance.
3. Public bearing on Application for Special Permit: The Planning Board shall fix reasonable time for the public hearing on the application for a special permit and give public notice thereof by the publication, in the official paper, of a notice of such hearing, at least five days prior to the date thereof, and shall, at least five days before such hearing, mail notices thereof to the parties, and to the regional State Park Commission having jurisdiction over any State park or parkway within five hundred feet of the property affected by such appeal, and shall decide the same within sixty days after the final hearing.
4. Expiration of Special Permit: A special permit shall be deemed to authorize only one particular special use, and such permit shall be considered null and void, if, within one year of the date of issue all improvements required for this special use are not completed, and if the special use shall cease for more than one year for any reason, unless otherwise provided in the Planning Board's approval of said use.
5. Revocation of Special permits: A use authorized by special permit may be revoked by the zoning Board of Appeals if it is found and determined that there

has been a failure of compliance with any one of the terms, conditions, limitations and requirements imposed by said permit.

6. Conditions and safeguards: The planning board shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements. The planning board may impose a time limit of no less than 3 years for the expiration of a special use permit where the facts and conditions surrounding the particular application warrant such time limit, and prior to the expiration of same, the applicant shall re-apply for a continuation of such special use permit. The planning board may waive any provision hereof which in its discretion may not apply to a particular project.

7.13 General Standards for Special Permits

1. The location and size of the use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
2. The location, nature and height of buildings, walls, signs and fences, and nature and extent of landscaping on site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or will not impair the value thereof.
3. Parking areas shall be of adequate size for the particular use, properly located, and suitable screened for adjoining residential uses, and the entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.

7.14 Additional Standards for certain special uses. The following additional standards shall apply to the uses set forth below.

1. Service Stations.
 - a. No damaged or dismantled vehicles or vehicular parts shall be stored externally for a period in excess of two weeks.
 - b. The following minimum distance requirements shall be adhered to: 12' from pump island to any lot line; 20' from building to each side lot line; minimum distance 500' in any direction from place of public assembly (including schools, churches, parks, theatres, etc.); access drives from the street frontage shall not be less than 20' from any property corner, and not wider than 50'; no access drive shall be closer than 10' to any lot line
 - c. A suitable fence or screen planting six feet in height shall be provided where a filling station abuts a residential street
 - d. Driveways and service areas shall be surfaced with a non-dust-producing surface. Lights shall be directed onto the lot of the filling station in such a manner that no direct beam of light or unnecessary glare shines into other property or the highways.
2. Multiple Dwellings: Garden apartments and multiple dwellings shall include not less than one acre of contiguous land.

- a. Maximum Building Coverage: "The maximum building coverage of the lot shall not exceed twenty-five percent, including accessory buildings. The remained of the lot, excluding necessary parking areas and vehicle access facilities shall be reserved as open space.
 - b. Maximum height of Buildings: thirty-five feet or 2 1/2 stories.
 - c. Additional regulation
 - i. The maximum density permitted shall not exceed twelve dwelling units per acre.
 - ii. Adequate recreational facilities shall be provided. A minimum of ten percent of the total area shall be devoted to recreational activities.
3. Motels and Tourist Accommodations. Where permitted in this local law, motels, hotels, and tourist accommodations shall conform to the following requirements
- a. Minimum land area per each unit shall not be less than 1,500 square feet.
 - b. Off-street parking shall be provided in accordance with Schedule II of this local law.
4. Sand, Gravel and Topsoil Extraction, Commercial. The excavation and sale of sand, gravel, clay, shale, topsoil or other natural mineral deposits shall be subject to the following conditions:
- a. Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or load shall be prohibited.
 - b. The top of any slope shall not be closer than forty feet to a property line, nor within one hundred feet of any public street or highway.
 - c. Land having an area of more than one acre from which topsoil has been removed or covered over by fill, shall be seeded to provide an effective cover crop within the fast growing season following the start of said operation.
5. Flood Hazard Areas. These areas are shown on the Flood Hazard Boundary Map for the Town of Ticonderoga, Federal Insurance Administration, Federal Emergency management Agency, U.S. Department of Housing and urban Development. All activity in such areas shall conform to the Town of Ticonderoga Flood hazard Regulations.
6. Wetland Areas. The areas shown on the Department of Environmental Conservation's Freshwater Wetlands Map for the Town of Ticonderoga. All activity in such areas shall conform to the Town of Ticonderoga Freshwater wetlands regulations.
7. Mobile Home and Travel Trailer Parks: Park Design Standards. In addition to the general requirements herein provided, the following standards shall apply to all mobile home and travel trailer parks:
- a. Application for a park permit
 - i. The applicant for a mobile home park or travel trailer park permit shall be responsible for furnishing all percolation tests, plans, engineering, land surveying services, environmental studies, and all other information required to determine compliance with the provisions of this law. Applications shall be in writing and signed by the applicant.
 - ii. Each application shall be accompanied by a site plan as required herein at a scale of one inch equals 100 feet, and shall show location of proposed lots, interior roadways and walkways, parking spaces, power and telephone lines, water and sewer systems, service buildings, park property, boundary lines and dimensions, significant natural

features such as woods, watercourse, rock outcrops, wetlands, and the names of adjacent property owners.

- b. **Grading and Drainage:** Lands used as a mobile home or travel trailer park shall be well drained, of ample size, and free from any heavy or dense growth of brush or weeds. The land shall be properly graded to insure proper drainage during and following a rainfall and shall at all times be drained so as to be free from stagnant pools of water. No lots shall be laid out in areas designated as wetlands on the state wetlands map or subject to flooding on Federal Flood hazard maps.
- c. **Access:** Each park shall have at least four hundred feet of frontage on a public road. Internal roads shall be such that access to the public road be not more frequent than one in six hundred feet. Where more than fifty units are planned, at least two entrances shall be provided.
- d. **Lots:** Each park shall be subdivided and marked off into lot numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted. All lots shall face interior roadways.
- e. **Setback:** All buildings, mobile homes or travel trailers shall be setback seventy-five feet from the center line of any public road. Such areas shall be seeded and adequately landscaped to provide screening from the road.
- f. **Interior Roads:** All roads shall be at least twenty feet wide and shall be hard surface and lighted in a manner to insure a proper traveling surface at all times. The owner or operator shall be responsible for constructing, maintaining and plowing such roads.
- g. **Utilities:** Water supply, sewage disposal and other distribution systems for electricity, gas, fuel oil, etc. shall be provided in accordance with the requirements of Chapter 1, Par 7 of the New York State Sanitary Code and this local law
- h. **Garbage:** Each park shall provide equipment sufficient to prevent littering and shall provide metal depositories with tight fitting covers. They shall be placed at convenient locations, and shall be emptied regularly and kept at all times in a sanitary condition.
- i. **Fire inspection:** Each park owner or manager shall cooperate with the fire chief in the district in which the park is located in arranging an annual inspection of the premises and conditions within the park. Recommended modifications shall be accomplished prior to renewal license renewal.
- j. **Park Office:** The owner or manager of a park shall maintain an office in the immediate vicinity of the park, and shall maintain accurate records of names of park residents, home address, make, description, year ruld license or identification number of the mobile home or travel trailer. These records shall be available to any Law Enforcement Official, the Town Enforcement Officer, and the Town Assessor.
- k. **Mobile Home Park Requirements**
 - i. **Lot Size:** Each mobile home lot shall contain at least seventy-five hundred square feet and no more than one mobile home shall be permitted to occupy one lot.

- ii. **Stand:** Each mobile home lot shall be provided with stand which provides an adequate foundation to insure against shifting and settling and must provide adequate anchors to insure against uplifting and overturning.
 - iii. **Yards:** Each mobile home lot shall have a minimum setback of twenty feet from interior streets and there shall be a minimum setback of twenty feet between any mobile home, including addition, and a rear or side lot line.
 - iv. **Parking:** Each mobile home lot shall provide off-street parking spaces for two automobiles, which shall be paved with a hard surface to eliminate mud and dust. Guest parking shall also be provided reasonably nearby in the amount of two spaces for every ten lots.
1. **Travel Trailer Park Requirements**
- i. **Lot Size:** Each lot in a travel trailer park shall be a minimum of twenty-five hundred square feet in
 - ii. **Slope:** Lots shall be located on generally level ground, not to exceed an 8% slope that is well drained, free of adequate; pull-through sites should be provided.
 - iii. **Mobile homes:** Mobile homes shall not be parked permanently or temporarily in any travel trailer park site.
 - iv. **Occupancy:** Travel trailers shall not be parked for occupancy in a travel trailer park for more than one hundred eighty days in any one year, unless authorized service building is provided. However, the travel trailer park operator may designate an area of the park site to be used to store unoccupied travel trailers for longer periods than one hundred and eighty days.
 - v. **Recreation:** A minimum of five percent of the total area of the travel trailer park shall be dedicated to recreational area and shall be reasonably equipped and fully maintained by the park operator
 - vi. **Service Building:** Any park containing twenty or more lots shall provide a building(s) containing at least two automatic washers and dryers, a public telephone, and unless admission to the park is restricted to units equipped with these facilities, one toilet, lavatory and shower for each sex for each twenty lots. All service buildings shall be of substantial construction and shall be maintained in a clear sanitary and slightly condition.
- m. **Inspection.** The applicant shall notify the Town Clerk when the park is ready for final inspection. The enforcement officer shall promptly make arrangements with the applicant to make a final inspection. If satisfied that the park project complies with the regulations contained herein and that the project has been completed as specified on the approved site plan, the enforcement officer shall issue a certificate of completion granting final permission to use the park.
- n. **Park License.** Upon completion of final inspection, issuance of a certificate of completion and payment of the fee required herein, license to operate the mobile home park shall be issued by the Town Clerk, authorizing the

operation the park for the period of one year from the date thereof. The Town Board may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this law. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with this law. The license certificate shall be conspicuously posted in the office of on the premises of the park at all times.

- o. License Renewal. The park license shall be renewed annually on the anniversary of the original date of approval. It shall be the park owner's responsibility to initiate the renewal procedure by completing the renewal application form and submitting it to the Town Clerk thirty days prior to the expiration of the current license. After inspecting the park for health and safety irregularities or design modifications, the enforcement officer shall approve or disapprove the application in writing.
- p. License Fee. The license fee or the license renewal fee, in such amount as the Town Board may establish by resolution, shall be submitted with the completed renewal application. The license fee shall not be returned if the renewal application is disapproved. An applicant whose renewal application has been disapproved shall be granted thirty days grace period in which to correct any deficiencies noted by the enforcement officer. In such cases, the license fee shall include the original inspection and up to two re-inspections. Thereafter, a new application shall be required.
- q. Existing Mobile Home parks or travel trailer parks. Mobile home parks or travel trailer parks existing in the town prior to the _____ were provided four years from the effective date of this law to comply with the provisions of this law except where otherwise stated. Existing parks shall be entitled to receive an annual license upon payment of the fee set by the Town Board to operate a park until the deadline stated above. All requirements of this law shall be met by the owners of the existing parks within the time set forth. The enforcement office shall make a thorough inspection of all parks which existed prior to enactment of this law and notify the owner thereof, at least six month prior to the deadline, of all sections of this law which have not been complied with. Thereafter, it shall be the park owner's responsibility to correct these violations and arrange for the enforcement officer to make final inspection for compliance prior to the deadline date. If said violation has not been corrected by this date, the enforcement officer shall give notice to the Town Clerk and/or Town Board to refuse renewal of said park owner's license to operate. The Town Board will take whatever steps are necessary to enforce closure of the park.

7.15 State Environmental Quality Review (SEQR). All activities occurring within the Town shall conform to the requirements and guidelines of Article 8 of the Environmental Conservation law. "State Environmental Quality Review Act (SEQR) and as amended.

7.16 Subdivision regulations. By authority of the Resolution of the Town Board of the Town of Ticonderoga, pursuant to the provisions of section 276 of the town law of the State of New York, the Planning Board of the Town of Ticonderoga is authorized and empowered to approve plots showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plots already filed in the office of the clerk of the county and to approve preliminary plots within the Town of Ticonderoga.

7.17 Entailed Costs. All applicants submitting an application requiring additional professional assistance (as determined by the Planning Board) shall pay a "Review Fee" provided for by this Local Law to the Town Clerk upon submission of the application. No application shall be deemed complete until all fees and deposits have been paid in full

1. Definition of Review fee: The total cost incurred by the Town of Ticonderoga for expert review of the proposed project, site plan review, and to include all legal, engineering, architectural, landscaping, secretarial, consultants and all other services that may be deemed necessary to the review officer:
2. Since the fee is on an hourly basis, the reviewer would present a proposal based on an estimate of the number of hours that may be involved; however, provisions will have to be made for a second deposit when the actual number of hours for review start to exceed those in the estimate.

7.18 Administration Officer. The Planning Board may appoint an administrative officer, on a temporary or permanent basis or on a project-by-project basis, to assist in administration and enforcement of this local law or any additional regulations adopted pursuant to Section 5.020 hereof.

7.19 Further Regulations by Planning Board The planning board may, after public hearing, adopt such further procedural rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

7.20 Public Hearing Notice and conduct

1. Any public hearing held under Section 3.030 or 3.040 of this local law shall be advertised by a notice of public hearing, to be published once in the official newspaper of the town at least five days prior to the date of the hearing. In addition, at least ten days prior to the date of the hearing, notices shall be mailed to the applicant, and to all owners of property within five hundred feet of the exterior boundary of the property for which application is made, as may be determined by the latest assessment records of the town. Notice of hearings by the Board of Appeals also shall be mailed to the Chairman of the Planning Board.
2. Any hearing may be recessed by the Planning Board or the Board of Appeals in order to obtain additional information to serve further notice upon other property owners, or to persons it decides may be interested in the proposal being considered. Upon recessing the time and date when the hearing is to be rescinded will be announced. No further notice or publication will be necessary.

7.21 (Amendment 7/29/99) Fees Site Plan Review Application shall be \$25.00 plus certified mail fees for notification of adjoining land owners, for all applications.

ARTICLE VIII
Non-Conforming Uses and Buildings

8.11 Continuation. Subject to the provisions of this ordinance, a nonconforming structure or use of a structure containing a nonconforming use may be continued and maintained in reasonable repair but may not be enlarged or extended as of the date this ordinance becomes law, except as follows:

1. A single-family dwelling or mobile home may be enlarged or rebuilt as follows:
 - a. All setback provisions of this ordinance shall be met; and
 - b. No enlargement or rebuilding shall exceed an aggregate of 25% of the gross floor area of such single-family dwelling or mobile home, excepting therefrom any porches or decks whether enclosed or not, immediately prior to the commencement of the first enlargement or rebuilding.
2. In no case shall any increase or expansion violate or increase noncompliance with the minimum setback requirements, height requirements, yard space or land coverage.
3. This article shall not be construed to permit any unsafe use or structure or to affect all proper procedures to regulate or prohibit the unsafe use or structure.
4. Except as cited in Subsection A above, any nonconforming use may be increased only by variance granted by the Zoning Board of Appeals.
5. An existing structure which violates only the area requirements of this ordinance may be enlarged or extended so long as such enlargement or extension does not violate the setback or lot coverage requirements of this ordinance.
6. Site plan approval by the Planning Board shall be required for any enlargement or extension of a nonconforming structure or use of a structure containing a nonconforming use.
7. Nothing in this ordinance shall prevent the use of any lot, or the erection of a building or other structure on any lot, which does not conform to the minimum area, shape or frontage requirement of this ordinance, provided that all other requirements of this ordinance are met.

8.12 Discontinuance. If a nonconforming use is discontinued for a period of 18 consecutive months, further use of the property shall conform to this ordinance or require an area or use variance, as the case may be, from the Zoning Board of Appeals.

8.13 Change in use. If a nonconforming use is replaced by another use, such use shall conform to this ordinance.

8.14 Destruction.

1. **Area nonconformity.** Any structure which is nonconforming due to a setback violation or, in the case of multifamily housing, due to greater intensity than would be allowed by this ordinance, which is destroyed wholly or in part by fire, flood, wind, hurricane, tornado or other act beyond the control of man shall be allowed to reconstruct according to its original dimension and intensity if substantially completed within 18 months of said

destruction.

2. Use nonconformity. Any structure which is a nonconforming use according to the provisions of this ordinance which is destroyed by fire, flood, wind, hurricane, tornado or other act beyond the control of man, to the extent of 50% of the assessed value of the structure or more, shall be allowed to reconstruct and reuse such non-conforming use according to its original dimension and intensity if substantially completed within 18 months of the destructive incident. If within the eighteen-month period, the structure containing the nonconforming use is not substantially completed, the nonconforming use shall not be reestablished, and the property shall only be used for a conforming use. Local Law No. 4 of 2008.

ARTICLE IX

Administration and Enforcement

9.10 Enforcement Officer: This ordinance shall be enforced by the Building Inspector, who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued by him except where all the provisions of this ordinance have been complied with.

9.20 Board of Appeals

1. Creation, Appointment and Organization: A board of appeals is hereby created. Said Board shall consist of five members. The Board shall elect a chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs. The Board of Appeals shall be subject to all requirements imposed under Town Law Section 267.
2. Powers and Duties: The Board of Appeals shall have all the power and duties prescribed by law and by this ordinance, which are more particularly specified as follows:
 - a. Meetings, minutes, records. Meetings of the Board of Appeals shall be open to the public to the extent provided in article seven of the Public Officers Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
 - b. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the town clerk within five business days and shall be a public record.
 - c. Assistance to Board of Appeals. Such Board of Appeals shall have the authority to call upon any department, agency or employee of the town for such assistance as shall be deemed necessary. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance
 - d. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Building Inspector. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.
 - e. Filing of decision and time of appeal.

- i. Each order, requirement, decision, interpretation or determination of the Building Inspector shall be filed in the office of the Building Inspector, within five business days from the day it is rendered, and shall be a public record.
- ii. An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the Building Inspector, by filing with such Building Inspector and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken
- iii. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals, after the notice of appeal shall have been filed with the Building Inspector, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.
- iv. Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
- v. Time of decision. The Board of Appeals shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board
- vi. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- vii. Notice to park commission and county planning board or agency or regional planning council. At least five days before such hearing, the board of appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred feet of the property affected by such appeal; and to the county planning board or agency or regional planning council, as required by section two hundred thirty-nine-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the General Municipal Law.

- viii. SEQRA. Compliance with state environmental quality review act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA), and related regulations.
- ix. Rehearing. A motion for the 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.
- x. Voting requirements.
 - 1. Decision of the board. Except as otherwise provided in subdivision twelve of this section, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of section two hundred thirty-nine-m of the General Municipal Law shall apply.
 - 2. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision eight of this section, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in subdivision twelve of this section.
- xi. Permitted Action by the Board of Appeals:
 - 1. Orders, requirements, decisions, interpretations, determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Building Inspector and to that end shall have all the powers of the Building Inspector from whose order, requirement, decision, interpretation or determination the appeal is taken.
 - 2. Use variances. The Board of Appeals, on appeal from the decision or determination of the Building Inspector, shall have the power to grant use variances, as defined herein.
 - a. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable

zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

- b. The 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.
3. Area variances. The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Building Inspector, to grant area variances as defined herein.
 - a. In making its determination, the 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 Board of Appeals, but shall not necessarily preclude the granting of the area variance.
4. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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

9.30 Planning Board.

1. Pursuant to § 271 of Town Law, the Town of Ticonderoga has created a Planning Board. Said Board consists of seven members appointed by the Town Board in such manner and for such terms as provided in the Town Law. The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this chapter. The Planning Board shall have original jurisdiction for site plan review and special use permits and referral jurisdiction on matters as set forth in this local law.
2. The Town Board may appoint up to two alternate members of the Planning Board to substitute for any regular member in the event of a conflict of interest or other appropriate factor such as illness, vacation or other absences. The alternate member(s) shall be appointed by resolution of the Town Board for a term of seven years. The chairperson of the Planning Board may designate an alternate member to substitute for a regular member whenever any regular member is unable to participate in an application or matter before the Board. When possible, the chairperson shall alternate the substitution by the two alternate members so that the alternate members have approximately equal opportunities to serve on the Planning Board to the maximum extent possible. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. All provisions relating to Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other Boards shall also apply to alternate members, with compensation provided to the alternate members only for meetings at which they actually serve on the Board.
3. The Planning Board shall follow up all statutory procedures of this local law, the State of New York including but not limited to SEQRA, public hearing requirements, referral requirements and all other similar statutory requirements.

9.40 Violations-Penalties

1. Whenever a violation of this law occurs any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the Zoning Board Administrator who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Zoning Board Administrator shall issue an order to cease and desist until the violation is corrected. If the violation is not corrected within the specified time the Zoning Board Administrator shall take action to compel compliance.
2. Pursuant to criminal procedure law Section 150.20 (3), the Zoning Administrator is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the town justice

3. Pursuant to municipal Home Rule Law Section 10 and Town Law Section 268, any person, firm or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resist the enforcement of any of the provisions of this ordinance shall, upon conviction, be deemed guilty of a violation and subject to fine. Any violation of this law is an offense punishable by a fine not exceeding \$350.00 for conviction of a first offense; for conviction of a second offense both of which were more than \$700.00; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than that of \$750.00 nor more than \$1,000.00. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violation of this ordinance shall be deemed misdemeanors and for such purpose only. All provisions of the law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation
4. The Town Board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this ordinance. The town attorney or any aggrieved person may take such action, criminal, civil or both, as may be provided by law against any person or organization who violated or may intend to violate this ordinance. Amended April 12, 2001.

ARTICLE X

Amendments

10.10 Procedure for Amendments

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

Every such proposed amendment or change, whether initiated by the Town Board or petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provide for. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

1. By publishing at least ten days notice of the time and place of such hearing in a paper of general circulation in the Town.
2. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commission having jurisdiction over such state park or parkway at least ten days prior to the date of such public hearing
3. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any village or town or within such municipality and to the clerk of the Board of Supervisors at least ten days prior to the date of such hearing
4. A written notice of any proposed change or amendment affecting real property within 500 feet of the boundary of the Town of Ticonderoga from the boundary of any exiting or proposed county or state or proposed county or state parkway, thruway, expressway, road, or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any state owned land on which a public building

institution is situation shall be referred to the Essex County Planning Board as provided for by Sections 239-12 and 239-m of Article 120B of the General Municipal Law. If the Essex County Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after adoption of a resolution setting forth the reason for the contrary action.

5. In case, however, of a protest against such change, signed by the owners of twenty percent or more of the area of land included in such proposed changes or of that immediately adjacent extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

ARTICLE XI Separability

11.10 Separability Clause

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

ARTICLE XII Effective Date

12.10 Effective Date

This Local Law shall take effect upon filing with the New York State Secretary of State.

Town of Ticonderoga			
Schedule 1			
ZONING SCHEDULE OF USES			
ZONING DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL USES
Historic, Park, State Lands, Land Conservation, Town Lands	Agricultural Use and Agricultural Use Structure	Off street parking, signs and other customary incidental uses to the permitted principal use allowed in this zone	Major Public Utility Use
	Flush-Mounted Solar Panel	Tier 2 Solar Energy Systems	Sand, Gravel and Topsoil Extraction, Commercial
	Hunting and Fishing Cabin		Sportsmen's Club/Firing Range
	Nursery		Tier 3 Solar Energy Systems
	Public or Semipublic Building		
	Public Parks		
	Rooftop Solar System		
	Sand, Gravel and Topsoil Extraction, Private		
	Tier 1 Solar Energy Systems		
Rural Residential	Agricultural Use and Agricultural Use Structure	Home occupations	Veterinary Clinic
	Cemeteries	Off street parking and loading areas	Lodge
	Places of Worship		Dude ranch
	Public or Semi-Public Building	Garage, Private	Golf course
		Private stables	Kennel
	Nursery	Private swimming pools	Major Public Utility Use
	Mobile Home	Recreational Facilities, Private	Mobile home park
	Dwelling	Tier 2 Solar Energy Systems	Sand, Gravel and Topsoil Extraction, Commercial
	Hunting or Fishing Cabin		Schools
	Public parks & playgrounds		Public stables
	School		Sportsmen's Club/Firing Range
	Tier 1 Solar Energy Systems		Sawmill, Chipping and Pallet Mill
			Tourist accomodations
			Trailer Camp
			Trailers on a single parcel
			Travel Trailer Camp
Medium Residential	Cemetary	Garage, private	Bed-And-Breakfast

Footnotes: Manufacturing research, warehouse uses: Must not detract from primary commercial/retail nature of area. Warehouse must be in separate building from retail or residential and lot coverage <50%.

	Duplex	Home Occupation	
		Off street parking and loading areas	Major Public Utility Use
	Mobile Home	Private swimming pools	Mini storage facilities
	Places of Worship		Mobile home parks
	Public or Semipublic Buildings		Multiple Dwellings
	Public parks & playgrounds		Nursing Home
	Public Utility Use		Private school
	Rooftop Solar System		Tourist Accommodations
	School		
	Single Family Dwelling		
	Townhouse		
	Tier 1 Solar Energy Systems		
High density Residential	Duplex	Garage, private	Bed-And-Breakfast
	Multiple Dwellings	Home Occupation	Craft shops
	Places of Worship	Private swimming pools	Lodge
	Public or Semipublic Buildings		Mobile Home
	Public parks & playgrounds		Mobile Home Parks
	Rooftop Solar System		
	School		
	Single Family Dwelling		
	Townhouses		
	Tier 1 Solar Energy Systems		
Service Business	Any use permitted in a residential district	As for High density and fully enclosed storage	Any special use in a residential area
	Automotive Sales	Tier 2 Solar Energy Systems	Amusement Center
	Bank		Boat Storage Facility
	Funeral Home		Major Public Utility Use
	Motel		Marina
	Motor Vehicle Service Station		Mini Storage Facility
	Personal Service Business		Recreation Facility, Commercial
	Professional Office		Shopping Mall/Plaza
	Restaurant		Tier 2 Solar Energy Systems
	Retail store		
	Tier 1 Solar Energy Systems		
	Service Station		
	Theater		
	Wholesale Business		
Central Commercial	Those permitted in Service Business	Those permitted in Service Business	Major Public Utility Use
		Tier 2 Solar Energy Systems	Manufacturing & research
			Warehouse uses
Light Industrial	Industrial Park	Those permitted in Service Business	Major Public Utility Use

Footnotes: Manufacturing research, warehouse uses: Must not detract from primary commercial/retail nature of area. Warehouse must be in separate building from retail or residential and lot coverage <50%.

	Light Industry	Tier 2 Solar Energy Systems	Sawmill, Chipping and Pallet Mill
	Mini Storage Facility		Tier 3 Solar Energy Systems
	Wholesale Business		
	Airport		
Industrial	Food processing plants	Those permitted in Service Business	Adult Entertainment Business
	Heavy Industry		Junkyard
	Industrial Parks		Sand, Gravel and Topsoil Extraction, Commercial
	Sawmill, Chipping and Pallet Mill		Tier 3 Solar Energy Systems
	Storage Yard		
			As Adopted 12-30-2019

Footnotes: Manufacturing research, warehouse uses: Must not detract from primary commercial/retail nature of area. Warehouse must be in separate building from retail or residential and lot coverage <50%.

Town of Ticonderoga							
Schedule 2							
AREA, BULK AND COVERAGE CONTROLS							
ZONE	Minimum			Minimum			Coverage %
	Lot Dimensions			Yard Dimensions			
	Lot Area	Lot Width	Lot Depth	Front Yard	Rear Yard	Side Yard	
HISTORIC PRESERVATION/LAND CONSERVATION	80,000	400	400	40	50	20	5
RURAL DENSITY RESIDENTIAL	40,000	200	200	40	50	20	10
MEDIUM DENSITY RESIDENTIAL	20,000	80	125	30	30	10	30
HIGH DENSITY RESIDENTIAL	(5)	---	---	---	---	---	---
SERVICE BUSINESS	20,000	100	125	60	10(1)	0	40
INDUSTRIAL	40,000	200	200	40	10	10	40
LIGHT INDUSTRIAL	<u>80,000</u>	<u>200</u>	<u>200</u>	<u>(3)</u>	<u>(4)</u>	<u>100(2)</u>	<u>40</u>
CENTRAL COMMERCIAL	[80000] ---	[200] ---	[200] ---	[(3)] ---	[(4)] ---	100(2)] ---	[40] ---
FOOTNOTES							
(1)	If one is provided						
(2)	Setback applies to other zones						
(3)	Highway setback = 200'						
(4)	Interior of the Industrial Zone Setback from Property Line = 50'						
(5)	5,000 square feet for lots with municipal sewer and water						
	11,000 square feet for lots without municipal sewer and water						

October 2024 Amendment: Explanation: New Material is underlined. Deleted Material is in [brackets and strikethrough.]

