

TOWN OF JOHNSTOWN, NY

FULTON COUNTY

Zoning Ordinance Chapter 84

**Revised
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ARTICLE 1 PURPOSE

Section 84 -1. Title.

This Chapter of the Municipal Code of the Town of Johnstown, New York, 2008, as amended may be known, cited and referred to as the Town of Johnstown Zoning Code. In this Chapter, it is, at times referred to as the "Code".

Section 84 -2. Enacting Clause and Purposes.

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and the Municipal Home Rule Law, the Town Board of the Town of Johnstown hereby adopts and enacts The Town of Johnstown Code.

Section 84 -3. Scope and Purpose.

This chapter is enacted for the following purposes:

- A. To implement and promote in a good-faith manner the recommendations of the comprehensive plan, such as:
 - 1. Preserve the Town's rural character
 - 2. Facilitate orderly development
 - 3. Provide for and encourage new development compatible with existing uses and Town character.
- B. To lessen congestion in the streets.
- C. To secure safety from fire, flood, panic and other dangers.
- D. To promote health and the general welfare.
- E. To provide adequate light and air.
- F. To prevent the overcrowding of land.
- G. To avoid undue concentration of population.

- H. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- I. To conserve the value of buildings.
- J. To encourage the most appropriate use of land throughout the town and its relations with incorporated municipalities and unincorporated villages and/or settlements.

Section 84 -4. Applicability – Compliance Required.

No building or structure shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in compliance with this Zoning Law.

Section 84 -5. Exemptions.

All buildings under construction at the time this Zoning Law is adopted shall conform to the Zoning Law in effect at the time relevant approvals were issued and in compliance with all conditions of said approvals.

Section 84 -6. Effective Date and Effect on Prior Laws.

The Town of Johnstown Zoning Code shall take effect at the time and in the manner provided by law.

Section 84 -7. Interpretation and Separability.

- A. **Conflicting provisions.** The provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. When this chapter imposes a greater restriction on the use of buildings or land or the height of buildings or requires larger open spaces or makes any other greater requirement than is imposed or required by any other ordinance, rule or regulation or by easements, covenants or agreements, the provisions of this chapter shall govern. Should any section or provision of this local law be declared null, void, voidable, or invalid, such finding of invalidity shall not affect the validity of the remaining portions of this local law.

ARTICLE 2 ZONING ADMINISTRATION AND ENFORCEMENT

Section 84 -8. General.

- A. **Code Enforcement Officer.** This Chapter shall be administered by the Code Enforcement Officer together with the Town Board, the Planning Board and Zoning Board of Appeals depending on the appropriate jurisdiction pursuant to this law. Compliance with this Chapter shall be enforced by the Code Enforcement Officer.
- B. **General Provisions.** No person shall undertake any development or commence any land use activity without first applying for, and obtaining, a zoning permit from the Code Enforcement Officer unless otherwise exempt pursuant to this Chapter and/or the Town of Johnstown Subdivision Regulations. A zoning permit will be issued only when the Code Enforcement Officer has determined that all requirements of this Chapter and all other applicable laws and regulations have been satisfied.

Section 84 -9. Procedures.

- A. **Meeting with Code Enforcement Officer.** Any person intending to engage in an activity that may be subject to this Chapter and/or the Town of Johnstown Subdivision Regulations should meet with the Code Enforcement Officer as early as possible to determine which, if any, permits or approvals may be required and what review procedures, if any, apply.
1. **Filing Application for Zoning Permit.** A person desiring a zoning permit shall file an application for a zoning permit with the Code Enforcement Officer, together with the appropriate fee. The application shall be submitted on forms provided for such purpose by the Code Enforcement Officer, and shall include 2 copies of a plot plan drawn to approximate scale showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this Chapter. Following personal receipt of an application and its signing by the Code Enforcement Officer, the Code Enforcement Officer shall notify the applicant within 10 working days of any additional information required for completion of the application. Applications requiring additional information shall be deemed incomplete and shall not be considered a pending

application until fully complete. If no notice for additional information is given, then the application shall be deemed complete as filed. When all additional information is received, the Code Enforcement Officer shall acknowledge the same in writing. If directed by the Town Board, the Code Enforcement Officer shall provide a report or copies of completed applications received to the Town Board, the Planning Board, the Zoning Board of Appeals and/or the Town Assessor on a periodic basis.

2. Determination.

- a. The Code Enforcement Officer will advise the applicant of the requirements for the approvals needed, and shall provide information to the applicant when requested by the applicant in the preparation of the required application. When the required approvals have been obtained, and all other legal and regulatory requirements have been satisfied, the Code Enforcement Officer shall issue a zoning permit. Not later than 10 working days after receiving a completed application, the Code Enforcement Officer shall mail or deliver to the applicant the determination that either:
 - i. The proposed project or activity complies with the requirements of this Chapter and all other applicable local laws and regulations and requires no other approvals, and accordingly a zoning permit is issued; or
 - ii. The proposed project or activity is inconsistent with one or more specified requirements of this Chapter or other applicable local law or regulation, and a zoning permit is denied; or
 - iii. The proposed project requires one or more specified special approvals before a zoning permit can be granted. The proposed project may, for example, be for a use allowable by Special Use Permit and/or Site Plan approval, requiring approval of a Special Use Permit by the Planning Board and/or approval of a Site Plan by the Planning Board.
 - iv. Note that any decision of the Code Enforcement Officer made pursuant to this Article may be appealed to the Zoning Board of Appeals, or a variance may be sought from the Zoning Board of Appeals pursuant to this Chapter.

3. **Issuance and Posting.** All zoning permits shall be issued in duplicate and 1 copy shall be conspicuously posted (protected from the weather, if necessary) by the applicant and on the premises affected at all times while construction or development is ongoing. In issuing a zoning permit, the Code Enforcement Officer shall sign, date, and return to the applicant 1 copy of the approved plans bearing the notation "Approved." No person shall perform any construction or otherwise undertake a project requiring a permit unless a zoning permit for such project is displayed as set forth above, nor shall any person perform such activities after notification of the revocation of a zoning permit.
4. **Revocation.** If the Code Enforcement Officer determines that an application or accompanying plans are in any material respect false or misleading, or that work being done upon the premises differs materially from what is allowed by the zoning permit, the Code Enforcement Officer may forthwith revoke the zoning permit. The permittee shall thereupon cease the use, activity, or construction, and surrender the zoning permit to the Code Enforcement Officer.
5. **Lapse and Renewal.** A zoning permit shall lapse one year following the date it was granted if the project has not been commenced or the use has not been commenced. The Code Enforcement Officer may renew any zoning permit for a period terminating not later than one year from the date it would have originally lapsed, provided that the facts upon which the zoning permit was granted have not substantially changed.
6. **Compliance With Building Code.** The issuance of a zoning permit shall not be deemed proof of compliance with the New York State Uniform Fire Prevention and Building Code. Once a zoning permit is issued, a building permit may be issued pursuant to the Building Code if in compliance with the requirements of the Building Code. A building permit may be applied for simultaneously with a zoning permit application but the zoning permit application must be issued first in order for any building permit to be effective.
7. **Site Inspection.** The submission of an application for a zoning permit, Site Plan, Special Use Permit or variance, shall constitute consent to the Code Enforcement Officer and to members or designates of the boards with authority to grant the required approvals or variance to conduct such inspections of the site as such persons deem necessary and appropriate for the purposes of this Chapter.

- B. Certificate of Compliance.** No use for which a zoning permit was granted shall be occupied or maintained except pursuant to a certificate of compliance issued by the Code Enforcement Officer. The Code Enforcement Officer, within 10 working days after receipt of request for inspection of a project or operation of a use for which a zoning permit has been issued, shall inspect and issue a certificate of compliance if the project has been completed, or the use is being operated in compliance with all terms of the zoning permit and with all applicable provisions of this local law and other laws and regulations including any approvals issued by the Zoning Board of Appeals and/or Planning Board, if applicable. Such certificate shall constitute a permit to occupy and/or conduct the use and, for non-residential uses, shall be conspicuously posted on the premises. If the project involves the construction of a building or structure, a building permit and certificate of occupancy must also be issued by the Code Enforcement Officer pursuant to the Building Code before the building or structure can be occupied.
- C. Violations.** Whenever a violation of this Chapter occurs, the Code Enforcement Officer may enforce compliance to remedy the violation or any person may file a complaint requesting enforcement action by the Code Enforcement Officer. All such complaints shall be made to the Code Enforcement Officer who shall properly record such complaint and thereafter investigate the allegations of such complaint. Said investigation shall be conducted at his discretion, contingent upon case loads and other official duties of the CEO. If a violation of this Chapter is found, the Code Enforcement Officer shall report his findings on such violation to the Town Board. The Code Enforcement Officer shall have authority to serve a notice of violation, an order to cease or stop work or order to abate or remove a violation upon any person owning, leasing, controlling or managing any building, structure, or land. The undertaking of a land use or development for which a zoning permit is required, or the construction of any improvement in a manner that materially deviates from an approved plan and the violation of any condition imposed by a zoning permit, certificate of compliance, Special Use Permit, Site Plan, variance, or subdivision approval shall constitute a violation of this Chapter.
- D. Penalty.** Any person owning, leasing, managing or otherwise controlling any building, structure, or land where a violation of this Chapter occurs and any person who commits or assists in the commission of any violation of this Chapter who, after being served with an order to cease or remove such violation, fails to comply with such order within 10 days after such service, shall be guilty of an offense and subject to a fine as authorized in Section 268 of the Town Law. The Code Enforcement

Officer has the authority under this Chapter and the Town Law to prosecute any such violations in the Town of Johnstown Justice Court.

1. **Continuous Violations.** In addition to the penalties defined in Subsection D above, any person who violates any provision of this local law shall, for every such violation, forfeit and pay a civil penalty pursuant to the current schedule of fees on file with the Code Enforcement Officer and with the Town Clerk. When a violation of any of the provisions is continuous, each week thereof shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty. The Code Enforcement Officer has the authority under this Chapter to commence a civil action in order to obtain a civil penalty under this provision in the Town of Johnstown Justice Court upon the notice to, and the consent of, the Town Board. To the extent that this provision is inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, section 268, the Town Board of the Town of Johnstown hereby declares its intent to change or supersede said section of the Town Law, pursuant to its home rule powers under the Municipal Home Rule Law, Article 2, Section 10, et. seq. of the Consolidated Laws of the State of New York.
 2. **Person other than Individual.** For the purposes of this Section, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.
 3. **Application of Penalties.** The methods of enforcement as set forth in paragraphs 1 and 2 above, as well as subsection E below, are not exclusive and may be utilized together, alternatively, repeatedly or in any combination thereof until compliance is obtained and the violation is abated. Abatement of the violation does not preclude the exaction of a penalty, fine or collection of attorney's fees and costs and such other relief a court may order.
- E. **Injunctive Relief.** In case of any violation or threatened violation of any of the provisions of this Chapter, or conditions imposed in any zoning permit or certificate of compliance, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation. As part of such action, the Town may request the Court for an order that requires the violator to reimburse the Town for the costs, including the attorney fees, incurred with respect to the action for injunctive relief.

F. **Misrepresentation.** Any zoning permit or other approval granted under this Chapter shall be void if it is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known.

G. **Fees.** The Town Board, by resolution, shall establish and amend (from time to time) a schedule of fees for the applications and permits required or contemplated by this Chapter. The current schedule shall be on file with the Code Enforcement Officer and with the Town Clerk. Such fees shall be payable to the Town Clerk at the time of application or, as appropriate, at the time of issuance of a permit. In certain instances where the reviewing Board deems the application, or any aspect thereof, requires a consultant to assist the reviewing Board, said Board may require as part of the fee, a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s).

1. The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time-period billed and the Town shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues. Any deposit amounts that remain at the end of the process shall be returned to the applicant.

ARTICLE 3 USE DISTRICTS

Section 84 -10. Zoning Districts Established.

A. The following zoning districts are hereby enumerated for the Town of Johnstown. All allowable uses as permitted for each district and defined in this code shall conform with the following intent and purpose of each zoning district in the Town:

1. **R-1. Residential One District.** It is the intent of the Town that the R-1 District be dedicated to use as single-family dwellings, certain home-based occupations, passive recreational uses, open space, essential public services, and other low-impact, low-density, low-activity uses. Future uses in this District shall be in harmony with and promote the long-term stability of the residential character of this District. Future non-residential uses are generally incompatible with the R-1 District, and consideration of incompatible uses should weigh the availability of more appropriate sites in other districts, among other reasonable factors.
2. **R-2. Residential Two District.** It is the intent of the Town that the R-2 District be dedicated primarily to residential uses, both single-family and multi-family housing. Future non-residential uses will strive to preserve the essentially residential character of this District by promoting site designs, buildings, activities, and hours that are consistent with that character.
3. **RPO. Residential and Professional Offices District (Formerly R-3).** It is the intent of the Town that the RPO District provides a mix of opportunities for a variety of residential development types, professional offices, and certain retailing activities of a limited size. However, the overall character of this District is primarily residential. Future non-residential uses will strive to preserve the essentially residential character of this District by promoting site designs, buildings, activities, and hours that are consistent with that character.
4. **RA. Residential Agriculture District.** It is the intent of the Town that the RA District be developed in a manner that promotes the efficient use of public infrastructure. Projects are to be developed in a manner that maintains an attractive natural environment and promotes Town character. Future development that may have more significant impacts by reason of infrastructure, density, character of the development, or intensity of use are encouraged to consider using Planned Unit Developments to lessen impacts, provide flexibility, and preserve the rural character of the RA District.

5. **AUZ. Agricultural Use Zone.** It is the intent of the Town that the AUZ be developed in a manner that encourages the continuation and stability of a diversified and viable agricultural economy for the Town and the region. Residential subdivision development within this zone should be designed to minimize the creation of nuisances caused by proximity to active agricultural production. Non-agricultural uses and activities are to be limited to such uses and activities that supplement the primary activity of agricultural production, such as farming, agricultural processing, home-based businesses, agricultural services, agri-tourism, and direct marketing of agricultural goods and services. Non-agricultural uses that may be incompatible with agricultural production by reason of dust or odors, among others, are to be discouraged. Consideration of non-agricultural uses should weigh the availability of more appropriate sites in other districts, among other reasonable factors.
6. **C-1. Commercial One District.** It is the intent of the Town that the C-1 District be developed to take advantage of proximity to existing development and public infrastructure. The District will encourage the development of uses that provide a diversified and vibrant business and commercial economy for the Town and the region. Non-commercial uses should be considered to the degree that they support the primary commercial uses in this District.
7. **C-2. Commercial Two District.** It is the intent of the Town that the C-2 District be developed for commercial uses to take advantage of proximity to existing development and public infrastructure. This District is intended to provide a full range of businesses, commerce, retail, and other support services. Uses should be a mix that encourages economic vitality and adds vibrancy to the Town's commercial base. Allowable uses should be mixed where appropriate, and the strict separation of allowable uses in this District is to be generally avoided. The pedestrian and visual character of this District is to be improved on an ongoing basis by promoting careful site designs, buildings, activities, and hours that are consistent with the intent of this District. Uses that are generally incompatible with this District are uses that would interfere with the future orderly and commercial development of this District.
8. **CID. County Institution District.** It is the intent of the Town to promote within the CID the development and operation of facilities and institutions that are owned or operated by Fulton County. Such uses in the CID should be designed and constructed to mitigate their adverse impacts on neighboring uses, especially residential uses. Allowable uses include county facilities as well as other public

or private enterprises that may take advantage of such facility by virtue of its proximity and related commercial activities.

9. **M-1. Manufacturing One District.** It is the intent of the Town that the M-1 District be developed primarily for uses as defined by this Chapter. Future development in this district should promote the economic base of the Town, take advantage of ready access to arterial roadways, utilities, and other infrastructure. Industrial uses that are not suitable for location in this area are such uses that may be considered objectionable by reason of nuisance level emissions of odor, dust, fumes, smoke, noise, vibration, refuse matter, and air or water pollution.

a. The following uses are expressly prohibited in the M-1 Manufacturing District: the manufacture of explosives, alcohol, dye, rubber, corrosive acids or alkalis, cement, lime, gypsum, plaster of paris, abrasives, petro-chemical fertilizers, petroleum refinement, glues derived from fish or animal refuse; slaughter houses or stockyards, tanning or curing of hides, and the rendering of greases, tallow or fats. Exempt from this prohibition is the production of alcoholic beverages such as beer, wine, or liquor conducted in conformance with the conditions and requirements of this Chapter and New York State rules, regulations, and licensing requirements.

B. **Allowable uses.** All allowable uses are contained in Appendix A: Allowable Use Table. Uses not specifically listed on the allowable uses table are prohibited.

C. **Zoning Map.** The locations and boundaries of the zoning districts hereby established are shown on a map entitled "Town of Johnstown Zoning Districts." The zoning district map and all notation, references and other information shown thereon are hereby declared to be a part of this chapter. The Planning Board shall delineate on the Zoning Maps all amendments to the district boundaries which are authorized by law immediately upon the effective date of such law, indicating the area, change and date of said amendment.

D. **Location of uncertain boundaries.** Where uncertainty exists as to the location of any boundaries shown on the zoning maps, the following rules shall apply:

1. District boundary lines are intended to follow center lines of street or alleys, rights-of-way, watercourses, or lot lines, or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimension as shown on the zoning maps.

2. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
3. 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 distance or measuring scale appearing thereon.
4. If after the application of the forgoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine and fix the location of said line.

ARTICLE 4 MINIMUM AREA/DIMENSIONAL REQUIREMENTS

Section 84 -11. Schedule of Regulations.

- A. The minimum area and dimensional requirements applicable for properties in each zoning district is set forth on the Schedule of Area/Dimensional Requirements attached to, and made part of, this Law as Appendix B.

Section 84 -12. Additional Area Regulations.

- A. **Reduction of lot area.** No lot area shall be reduced below the district requirements of this law.
- B. **Corner lot.** All corner lots shall provide a front and rear yard which is designated by the owner in the application for a building permit. A side yard along a street shall be a minimum of 25 feet. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot and of record at the time of the passage of this chapter to less than 24 feet.
- C. **Visibility at street corners.** On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than 3 feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.
- D. **Transition yard requirements.** Where the side or rear yard of a lot abuts a side or rear yard of a lot in a district more restrictive by reason of setbacks, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.
- E. **Projecting architectural features, terraces, porches, fire escapes.**
 - 1. Windowsills, belt courses, cornices, eaves and other customary architectural features, shall not project more than 2 feet into any required yard.

2. A deck not to exceed 30 inches above grade or paved terrace that are unroofed and without walls or other enclosures not to exceed 6 feet in height shall not be considered as part of a building in the determination of yard sizes or lot coverage. Such deck or terrace is restricted to not less than 10 feet from side or rear lot line.
 3. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches open at the side but roofed shall be considered a part of the building.
 4. An open stairway may extend into any required yard not more than 7 feet provided that such open stairway shall not be closer than 6 feet at any point to any lot line.
 5. Unenclosed entrance steps, stairways or ramps providing access to the first story of a building may extend into any required yard a distance not to exceed 8 feet and shall not be closer than 6 feet at any point on any side lot line.
 6. Pools. A pool shall not be considered an accessory structure, but shall only be placed in side or rear lots. A pool shall maintain a 10 foot setback from side and rear property lines and in the case of a corner lot, shall be placed no closer to the side property line than the principle building would be allowed in that particular district. A pool shall also maintain a 10 foot setback from any primary or accessory building.
- F. **Walls, fences and hedges.** The yard requirements of this chapter shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by town law in any zoning district under the following provisions.
1. **Location.** A fence, wall or hedge shall be no closer to any front lot line than 6 inches and shall comply with visibility at street corners as provided in this Article. No hedge shall be allowed to overhang the lot line.
 2. **Orientation.** The finished side of new and replacement fences must face surrounding properties. All supporting posts and cross-members must face the lot on which a new or replacement fence is located.
 3. **Height.**
 - a. Fences in front yards may be up to 4 feet in height. Side and rear yards fences may be up to 6 feet in height.

b. Fences on Corner Lots

- i. Fences closer than 10 feet to a side-street lot line may be up to four feet in height.
- ii. Fences 10 feet or more from a side-street lot line may be up to 6 feet in height.

Section 84 -13. Additional Height Requirements.

- A. **Chimneys, spires, etc.** The height limitations of this chapter shall not apply to barns, silos and other farm buildings, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy. Such features, however, shall be erected only to such height as is necessary to accomplish the customary purpose for which they are intended.
- B. **On through lots.** On through lots one hundred twenty (120) feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than one hundred twenty (120) feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than one hundred twenty (120) feet from that street.
- C. **Exceeding Height Limits.** Chimneys, water towers, mechanical appurtenances, flag poles, monuments, transmission towers and cables, radio, small wind energy systems, television and telephone antenna or towers and similar structures exceeding the zone height limitation are subject to site plan review.

ARTICLE 5 PARKING

Section 84 -14. Off-Street Parking.

- A. **Intent and Purpose.** The Town of Johnstown seeks to foster the construction of parking lots that promotes the safety of both pedestrians and vehicles, that creates a better experience of the Town and its businesses for people walking from the parking lot to surrounding destinations, and that minimizes or avoids adverse impacts to the natural environment of the Town. This article also provides for the orderly and safe conduct of business and appropriate access to the site for emergency vehicles. The Town recognizes that the conventional approach to parking lot design typified by unused expanses of asphalt is unsightly an inefficient use of land and undermines the desired character of the Town. As such, it is also the intent of this article to minimize such inefficiencies by providing a greater range of shared parking and maintenance options.
- B. **Applicability.** Adherence to this article shall be required for all uses constructed, extended and enlarged in use after the effective date of this chapter.
- C. **Parking Space Area.** Each parking space, exclusive of circulation area, shall consist of no more than 200 square feet and shall be no larger than 10 feet wide by 20 feet long (Note: All ADA requirements shall apply).
- D. **Compact Cars.** Parking lots shall contain not less than 10 percent of their spaces that are 8-1/2 feet wide by 18 feet long. These may be labeled for “Compact Cars Only” at the discretion of the property owner.
- E. **Access.** Each parking space shall be reached by an access driveway no wider than 22 feet clear in width.
- F. **Landscaping.** For proposed parking lots having more than 24 spaces, 20 square feet of landscaping shall be required for every parking space in excess of 24. For very large parking lots, the creation of multiple smaller parking lots separated by natural vegetation and bioretention areas is preferred and may be advised to minimize grading on hilly sites.

1. Landscaping required to satisfy the requirements of this Article should be designed and suitably landscaped to function as bioretention areas, as groundwater infiltration areas, as snow storage, or any combination of these functions.

G. Orientation. Parking lots shall be placed behind or to the side of buildings as measured from the façade facing the primary road right of way. Natural landscaping or decorative fencing of at least two feet and not more than four feet high shall be placed between parking lots and public ways. Chain link and other similarly styled and constructed fencing shall be insufficient for purposes of this paragraph. Public ways shall mean to include sidewalks and roads.

H. Residential Screening. All parking areas shall be screened from adjoining residential areas by natural landscaping, of at least eight feet high, and consisting of preferably evergreen species.

I. Display of Merchandise. Lots intended for the display of merchandise including, but not limited to automobiles, recreational vehicles, or boats, shall adhere to applicable landscaping and lighting requirements of this Article.

J. Parking lot lighting. All lighting fixtures shall be fully shielded light fixtures.

1. In the RA, AUZ, R-1, and R-2 zones, all site and building-mounted light fixtures shall produce a maximum initial illumination no greater than 0.01 horizontal and 0.01 vertical foot-candles at the site boundary.
2. In all other zones, all site and building-mounted light fixtures shall produce a maximum initial illumination no greater than 0.20 horizontal and 0.20 vertical foot-candles at the site boundary.

K. Target number of parking spaces. Parking spaces shall be provided as described Appendix C: Target Parking.

1. **Fewer spaces allowed.** The Planning Board, at its discretion, may allow for fewer spaces than prescribed in Appendix C of this Chapter. This is desirable as long as the resulting number of spaces meets the intent of this article and provides a reliable basis for orderly development and satisfactory provision of parking.

2. **Request for additional spaces.** If an applicant desires parking spaces in excess of 15 percent of applicable figures identified in Appendix C of this Chapter, then the applicant shall provide documentation recording actual utilization of parking for two or more similar establishments in markets comparable to the Town of Johnstown. The Planning Board may elect to reject such documentation if the use, location, activity, period of study, or target markets are not deemed by the Board to be sufficiently comparable to the proposed use in the proposed location. The Planning Board may likewise choose to rely on third party assessments at the applicant's expense to either approve, decline, or modify the applicant's request.
 - a. The applicant shall first demonstrate the lack of available shared spaces as prescribed in subsection L.
 - b. The Planning Board should consider the likelihood that the additional spaces will be utilized. Utilization shall be expressed as a ratio of parking days utilized versus days of operation in a year. Generally, such ratios should exceed 17 percent for the proposed use and hours. Ratios below this figure should discourage the consideration of additional parking spaces.
 - c. For any additional parking spaces granted by the Planning Board, the applicant shall ensure that 100 percent of the runoff from the additional spaces is detained onsite. This may be achieved through the use of pervious asphalt, pervious pavers, landscaped detention ponds, or any combination thereof.
- L. **Multi-tenant Parking Lots.** For any building or development having more than one tenant, the number of spaces to be provided shall be calculated in the method defined in this subsection.
1. **Calculate Parking for each use.** Calculate the number of spaces required for each use per the figures established in Appendix C, Target Number of Off-Street Parking Spaces.
 2. **Establish Primary Use.** The use requiring the most spaces shall be deemed the primary use for purposes of calculating parking only.
 3. **Calculate Modified Figures.** Recalculate the number of parking spaces for each non-primary use by multiplying each non-primary figure by the sharing factor

identified in Table 5.1. The Planning Board shall make any final determinations regarding the use category of proposed uses.

4. **Calculate Total Parking.** Total parking shall be the sum of the primary use parking allotment and each modified non-primary use allotment.
5. **Availability.** All parking spaces shall be available to all uses which contributed to the total allotment of parking spaces. There shall be no restrictions with the exception of handicapped parking.
 - a. If land within a multi-use development is to be subdivided, the Planning Board may require a parking covenant be recorded for each subdivided parcel and that documents the Town approved parking allotment for the site and any obligations thereto.
6. **Example Calculation.** A mixed-use project proposes both residential and office uses. It is estimated beforehand that the residential use will demand 50 parking spaces and it has been determined that the residential use will be the primary use. The office use will require 50 spaces, however it is a secondary use and a sharing factor of 0.6 is applied, resulting in a modified figure of 30 parking spaces for the office use. The total number of spaces for the project is 50 plus 30, for a total of 80.

Table 5.1 – Sharing Factors					
		Primary Use			
		Residential	Lodging	Commercial (except office)	Office
Non-Primary Uses	Residential	1.0	0.9	0.8	0.6
	Lodging	0.9	0.9	0.7	0.3
	Commercial (except office)	0.8	0.7	0.75	0.8
	Office	0.6	0.3	0.8	0.75

M. **Separated parking lots.** Allotted parking may be designated across differing lots of record if requested by the applicant or by the Planning Board. Allocated parking spots may be so provided if such lots satisfy each of the following requirements.

1. Is within a reasonable walking distance of the proposed use;
2. The two lots have or will have a shared parking covenant;
3. And, there is safe pedestrian access to the proposed uses.

N. **Shared Parking.** The Planning Board is encouraged to apply the shared parking formulas found in subsection L of this Article to approve the joint use of a parking facility and a reduction in the parking requirement by two or more principal buildings or uses, either on adjacent or nearby parcels. There shall be a covenant on the separate parcel or lot guaranteeing the maintenance of the required off-street parking facilities during the existence of the use. Such covenant shall:

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

O. **Change in Use of Building.** If a change of use of any building or site increases parking by 10 or more spaces above existing available spaces and as approved by the Planning Board for the changed use, then such additional parking shall conform with the requirements of this Article. If fewer than 10 spaces are required for said change, then the provisions of this Article shall not apply.

P. **Bicycle Racks.** Any use having 25 or more parking spaces are strongly encouraged to supply one bicycle rack suitable for at least three bicycles per 25 parking spaces.

Section 84 -15. Off-Street Loading.

- A. **Loading Facilities Required.** At least one off-street loading facility shall be provided for each commercial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet. Any manufacturing establishment is to be provided with off-street loading facilities. The number of facilities shall be determined by the Planning Board during the site plan review process. Space for off-street loading shall be in addition to space for off-street parking.
- B. **Minimum Requirements.** Each facility shall be subject to the following minimum requirements:
1. Each berth shall be not less than 12 feet wide, 55 feet long and 14 feet in height when covered.
 2. The location of space for each berth is to be determined by the Planning Board during the site plan review process, except no such berth shall be located closer than two hundred (200) feet to any lot in any residence district unless wholly within a completely enclosed building.

ARTICLE 6 SUPPLEMENTARY REGULATIONS

Section 84 -16. Accessory Buildings.

- A. **Number of Accessory Buildings.** There shall be not more than 3 accessory buildings on each lot used for residential purposes.
- B. **Height.** Maximum height of accessory building shall be not more than 25 feet, unless otherwise prescribed or allowed by this Chapter.
- C. **Location of detached accessory buildings in residence districts.** Accessory buildings which are not attached to a principal building may be erected within the rear yard in accordance with the following requirements unless otherwise prescribed in this Chapter:
1. For garage, tool shed, or similar storage, such structures shall be located no closer than 6 feet from side or rear line, except when abutting a road or alley, then the setback shall be 12 feet.
 2. For poultry house, rabbit, hutch, kennel or other type of shelters for domestic animals exclusive of horses, ponies and livestock, such structures shall be located no closer than 50 feet from any lot line.
 3. For stables and shelter of horses, ponies, and other livestock, such structures shall be located no closer than 100 feet from any lot line.
 4. Detached accessory structures located within side yards on the street side of a corner lot shall not exceed such setbacks established for the principal building.
 5. No detached building shall be closer than 10 feet to the principal building or another accessory building.
- D. **Attached accessory buildings in residence districts.** An accessory building attached to the principal building in a residential district shall comply with the requirements of this chapter applicable to the principal building.
- E. **Accessory buildings in commercial or manufacturing district.** Non dwelling unit accessory buildings shall comply with front and side yard requirements for the principal

building to which they are accessory and shall be not be closer to any rear property line than twenty (20) feet.

Section 84 -17. Accessory Dwelling Unit.

A. **Purpose.** Accessory dwelling units are allowed in the Town to achieve the following purposes:

1. Provide a mix of housing that responds to changing family needs and smaller households;
2. Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods;
3. Provide a broader range of accessible and affordable housing;
4. Allow accessory dwelling units while respecting the look and scale of single-family dwelling neighborhoods;
5. Increase the range and availability of housing options of existing neighborhoods in a manner that is less intense than other development alternatives;
6. Allow more efficient use of existing housing and public infrastructure; and
7. To provide housing that is modified and developed in accordance with applicable local, state, and federal building codes.

B. **Ownership.** Either the primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may designate a family member as a resident caretaker of the principal house and manage the accessory dwelling.

C. **Sufficient public health facilities.** No accessory dwelling unit shall be deemed fit for occupancy by the Town until the owner has demonstrated water supply and sewage disposal facilities are adequate for the projected number of residents. Additionally, the owner shall acquire all required approvals from the New York State Department of Health.

D. **Acreage Requirements and Creation Of.** Unless otherwise specified herein, the lot on which an accessory dwelling is located shall meet the minimum lot size requirements of the zoning district in which the accessory dwelling is located. Such minimum lot size requirement shall be satisfied in addition to the minimum lot size required for the primary dwelling. An accessory dwelling unit shall only be created through the following methods:

1. Adding floor area to the principal dwelling unit;
2. Constructing a detached accessory dwelling unit on a site with an existing house, attached house, or modular home; or
3. Constructing a new primary house, attached house, or modular home with an internal or detached accessory dwelling unit.

E. **Exemptions**

1. The internal conversion of existing living area, attic, basement or garage within the principal dwelling unit shall be exempted from meeting the minimum lot size requirements stated above in Subsection D of this Section.

F. **Number of Units.** Where permitted to occur, a maximum of one accessory dwelling unit per lot is allowed.

G. **Floor Area.** The floor area of an accessory dwelling shall not exceed 750 square feet or one-third of the floor area of the primary dwelling, whichever is less.

H. **Design Standards.** The design standards for accessory dwelling units are enumerated below and shall be considered minimum requirements. Applicable standards from the underlying zoning district shall also apply. All accessory dwelling units shall meet the following:

1. **Detached accessory dwellings, newly constructed.**
 - a. **Setbacks.** Accessory dwellings constructed in an R-1, R-2 or RPO residential district shall be placed no closer to the street than 15 feet behind the plane of the façade of the principal dwelling. Detached accessory dwellings in all other

zoning districts shall either be recessed behind, or flush with, the front elevation of the principal dwelling.

- b. **Height.** The building height of the detached accessory dwelling shall not exceed the height of the primary dwelling.
 - c. **Other Setbacks.** All applicable setbacks for the zoning district in which the accessory unit is proposed shall apply likewise for detached accessory dwellings.
 - d. **Building Orientation.** The orientation of the proposed accessory dwelling units shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the character of the surrounding neighborhood, including landscape screening, fencing, and window and door placement.
 - e. **Exterior Design.** Exterior finishing materials, roof pitch, eaves, trim, doors, and windows of accessory dwellings shall be similar in kind, style, and proportion to the principal dwelling.
2. **Parking.** The owner shall demonstrate that sufficient and suitable space is available for 1 additional vehicle. Parking shall be located on the street, where lawful, on a driveway, or to the rear or side of the accessory dwelling unit. Existing side yards shall not be used to demonstrate the availability of parking in R-1, R-2, and R-3 residential districts. In no zoning district shall a front yard be used to demonstrate the availability of parking.
3. **Buffering.** Where a detached accessory dwelling is within 20 feet of a lot line, a minimum 6 foot high hedge or fence between the detached accessory dwelling and the lot line shall be required to abate noise, light, and other disturbances arising from residential occupancy.
4. **Primary Entrance for Attached Accessory Dwelling Unit.** The primary dwelling unit and accessory dwelling unit shall have separate outdoor entrances. No more than one entrance shall be readily visible from the street.
- I. **No Subdivision of Land.** No detached accessory dwelling shall be subdivided from portions of the parcel where the principal dwelling unit is located, if such subdivision

results in a lot or residence that fails to meet applicable minimum bulk requirements in the zoning districts.

- J. **Unlawful accessory dwelling units.** Any existing unlawful accessory dwelling unit will not be subject to any enforcement action if an application to legalize the accessory dwelling is submitted within 12 months of the adoption of this section.

Section 84 -18. Animal Husbandry .

In addition to this Section, refer to Appendix A Allowable Use Table for information on which Zoning Districts Animal Husbandry is permitted and what approvals are required.

- A. **Animal Husbandry.** All animals shall be properly fenced. The following standards shall be additionally met in conducting animal husbandry:
1. **Non-Commercial Gardens.** Non-commercial gardens associated with a principle residential use and that are not used for commercial purposes are allowed in all zoning districts.
 2. **Number Allowed.** The keeping, breeding and raising of livestock and other animals shall be permitted on lots equal to or greater than 2 acres but less than or equal to 10 acres, provided that the provisions of this Section are met. This section shall not prevent the keeping of ordinary household pets such as dogs and cats capable of being housed in a residence. Keeping of livestock or animals that would fall under *6NYCRR Section 180.1 Wildlife Dangerous to Health or Welfare*, shall require a special use permit.
 - a. The following requirements and figures for animals shall be observed:
 - i. Dairy and beef cows, horses, and other domestic animals of similar size shall be limited to 1 animal for the first 2 acres, plus 1 animal for each additional acre up to 10 acres. The keeping of 5 or more of these animals shall require a special use permit, as provided in this Chapter.
 - ii. In the R1 Zone, the keeping of equine shall require a Special Use Permit and a minimum of 7 contiguous acres. Stables and areas designated for the storage of manure and shall be setback a minimum of 200ft from any side yard lot line and 300ft from any front yard lot line.

iii. Sheep, goats, swine and other domestic animals of similar size shall be limited to 1 animal for the first 2 acres and 1 animal for each additional 0.5 acres up to 10 acres

(a) Sheep, goats, swine and other domestic animals of similar size shall not be allowed in R1 Zone.

iv. Poultry (Hens only), rabbits, and other domesticated animals of a similar size shall be limited to a maximum of 50 animals for acreages less than 5 contiguous acres.

(a) For contiguous acreages of between 5 and 10 acres, the number of these animals shall not exceed 150.

(b) In the R1 Zone, the keeping of Poultry (Hens only), should not include rabbits, and other domesticated animals of a similar size shall require a special use permit.

(c) No commercial slaughtering of chickens is permitted.

b. **Larger Lots Exempt from Certain Conditions.** The keeping, breeding and raising of livestock, poultry and similar animals shall be permitted on lots greater than 10 acres and shall not be subject to the requirements of Subsection A(2) above.

c. **Manure and other nuisances.** The storage of manure or other odor- or dust producing substances shall be adequately screened from the view of adjacent properties and located not less than 100 feet from any lot lines unless required differently above.

i. The storage of manure over 5 cubic yards in size is prohibited.

ii. This requirement shall not apply to property greater than 10 contiguous acres.

d. **Setbacks of shelters and stables.** Unless otherwise stated in this Section, barns and structures for the housing of livestock shall conform to the setback provisions required for accessory structures. Poultry, rabbits and other animals of similar size shall be housed in structures that shall be set back the minimum distance required for accessory structures.

- e. **Lots less than 2 acres.** The keeping of livestock on lots less than 2 acres may be approved by special use permit by the Planning Board.

B. **Buffers.** Wherever animal husbandry uses abut residential uses in non-agricultural zoning districts, buffers shall be provided to reduce the exposure of these abutting residential uses to odors, noise, and other potential nuisances related to the animal husbandry use. Provision of buffers shall be the responsibility of the applicant. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be of such width as to reasonably minimize the potential for nuisances.

Section 84 -19. Mobile Homes Outside of Home Parks.

A. Prohibition of mobile homes.

1. No mobile home shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking, when caused by mechanical failure, shall be permitted upon the shoulder of any street or highway for a period of not more than 72 hours, subject, however, to any prohibition or limitation imposed by other regulations or laws.

B. **Multi-Section Manufactured Home.** A double-wide (or larger) manufactured home can be erected in a residential zone, provided it is erected on a permanent foundation, which has it's footing at least four feet below grade. The foundation wall must be masonry block or poured cement and may be a full cellar or frost wall in configuration. The foundation wall must extend to the underside of the perimeter of the home on all sides. The structure must be supported in accordance with manufacturer's insulation instructions, and all supporting members must have footings at least four feet below grade. All wheels, axels, road gear and tongue must be removed during installation.

C. **Mobile home permits.** A mobile home permit is required for occupation or parking of a mobile home on individual lots outside of mobile home parks. (Refer to the Use Table in Appendix A of this Chapter for the Zoning Districts where mobile homes are permitted outside of mobile home parks and the type of approval(s) required in addition to the mobile home permit discussed in this paragraph). The permit shall be issued by the Town Code Enforcement Officer upon submission of an application and any fees, as duly established by the Town.

D. **Property Maintenance.** Each stand or lot shall be maintained in an orderly manner. The use of a storage shed on each stand or lot shall be used for the storage of equipment and other personal property, which may otherwise be construed as junk as defined in this Chapter.

E. **Mobile home requirements.**

1. The mobile home is to be provided with potable water and a sewage disposal system designed according to NYS Department of Health Regulations and any other regulating agencies. (See Code Enforcement Officer for details).
2. No occupied mobile home outside a duly permitted mobile home park shall be parked or placed nearer to a lot line than stated in the yard requirements as established for each zoning district.
3. Not more than 1 occupied mobile home shall be placed or parked on any parcel of land, which is located outside a licensed mobile home park.
4. All mobile homes shall be installed on a mobile home stand according to Section 84-38.
5. No entryway or other addition may be constructed without a building permit.
6. Mobile homes heated with oil and/or other fuel supplies shall have a conventional tank erected and enclosed in a sightly manner. Barrels are not permitted.

F. **Existing mobile homes.** A mobile home lawfully in existence prior to the enactment of this Article but not located in a mobile home park or zoning district that permits mobile homes may be continued to be used as living quarters provided it meets the requirements of this chapter, including the securing of a permit.

1. The owner of record for the parcel on which the mobile home is situated shall adhere to all applicable state and local requirements for sanitation, sewerage, tidiness, and public health, safety, and welfare as they pertain to the residential occupancy of permitted mobile homes not located in a mobile home park.

G. Revocation of permits.

1. **Written Order.** If the Code Enforcement Officer finds that any mobile home located outside a licensed mobile home park is not being maintained in accordance with the provisions of the applicable Articles of this Chapter, the Code Enforcement Officer may serve a written order upon the owner of the premises, directing that the condition or conditions therein specified be remedied within 30 days after the date of service of the order.
2. **Correction of Violations.** If such condition or conditions are not corrected within the 30 days, the Code Enforcement Officer may revoke such permit. Upon revocation of the permit, the mobile home shall be removed from the premises within 10 days.

Section 84 -20. Property Maintenance.

A. **Intent.** By adoption of this law the Town of Johnstown declares its intent to regulate and control the storage or keeping of junk and rubbish on both residential and commercial properties. The Town Board hereby declares that a clean and attractive environment is of vital importance to the continued welfare of its citizens, and that junk/rubbish can constitute a hazard to property, persons, and water resources, and can be a public nuisance. The presence of junk/rubbish is unsightly and tends to detract from the value of surrounding properties. The purpose of this law is to further:

1. Avoid, prevent and eliminate conditions, which if allowed to exist or continue will depreciate or tend to depreciate the value of adjacent or surrounding properties;
2. Preserve property values in the Town of Johnstown; and
3. Maintain the value and economic health of the commercial properties; and businesses that serve and support the Town of Johnstown and its citizens.

B. **Definitions.** The use of the following terms as used in this section shall have the meanings established in this subpart. Any such terms used in the singular shall be held to include the plural. Any such terms or any other terms not defined in this section used in the masculine shall be held to include the feminine.

JUNK – The outdoor abandonment, discarding, storage or deposition of materials inclusive of, but not limited to, the following shall constitute junk.

APPLIANCES -One or more abandoned or inoperable appliance including but not limited to any stove, washing machine, dryer, dish washer, refrigerators, freezers, television, computer equipment, hot water heaters, water purification units or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled, or otherwise left un-housed or otherwise left exposed to the elements, no longer intended or in the condition for ordinary use.

FIXTURES -One or more kitchen or bathroom fixtures, including but not limited to sinks, toilets, tubes, showers, faucets, counter tops.

FURNITURE -One or more abandoned or irreparably damaged pieces of indoor or outdoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desk, tables, chairs, and chest of drawers;

LAWN EQUIPMENT -One or more items of lawn or garden equipment unusable according to its intended design;

MOTOR VEHICLES – two or more motor vehicles that do not each display a current motor vehicle registration or license plate or that cannot be removed under its own power shall be considered junk unless refuted by verifiable and credible proof; motor vehicle parts and materials which, taken together, equal in bulk two or more such vehicles shall be considered junk.

RECREATIONAL VEHICLE -One or more boat, water-craft, recreational equipment, four-wheeler, all-terrain vehicle, motorized mini-bike, pedal bike, or snowmobile inoperable by way of its original designed use.

NUISANCE -Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New York or its governmental agencies or the ordinances or local laws of the Town. Any physical condition existing in or the exterior of any premises, which is potentially dangerous, detrimental, or hazardous to the life, health or safety of persons on, near or passing within the proximity of the premises where such condition exist.

RUBBISH – Discarded or abandoned solid waste matter having worthless value or value limited primarily for recycling or salvaging, including but not limited to garbage, trash, ashes, paper, paper goods and products, wrappings, cans, bottles, containers, yard clippings, garden waste, debris, junk, glass, boxes, crockery, wood, mineral matter, plastic, rubber, tires, leather, furniture, household goods, appliances, bedding, scrap metal, construction material, inoperable machinery or parts thereof, garden equipment and supplies, dead or rotting vegetation, abandoned, inoperative, or unusable automobiles and vehicles, and solid commercial, industrial and agricultural waste.

STORAGE AREA -The areas of any parcel of land or body of water used for the placement, storage or deposit of junk other than a commercial junkyard.

- C. **Conflicting Provisions.** Where the conditions imposed by any provision of this law, are either more restrictive than comparable conditions imposed by any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- D. **Visibly Free of Rubbish.** The exterior of all premises visible from a public right of way or visible from a neighboring property shall be kept visibly free of rubbish, junk, and nuisances as established in the definitions section of this Section.
- E. **Screening.** Junkyards and outdoor placement of junk shall be screened from view from public right of way or from a neighboring property. Screening shall consist of a fence or vegetation at least eight feet in height. Such fence shall be of sound construction of solid vertical board or ‘stockade’ type construction, and shall be maintained neatly and in good repair. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view throughout the year. Failure to provide screening as required herein shall be considered a violation of this law.
- F. **Exemptions.** The storage or placement of the following materials designed for use or storage outdoors shall be exempt from the provisions of Subsection D to the extent that such storage or placement is maintained in a tidy condition and that such vehicles or materials remain in operable or useable condition consistent with their original designed use:

1. Wood for combustion in a wood burning stove, furnace or fireplace;
2. Lawn, yard, or garden ornaments that are in harmony with the prevailing character of the surrounding neighborhood;
3. Lawn and patio furniture;
4. Agricultural, farm, garden, or yard machinery and apparatus for use on the premises;
5. Standing fences;
6. Hoses and sprinklers used for watering lawns or gardens;
7. Storage or placement or accumulation of materials that support primary uses onsite and where such storage, placement and accumulation is in conformance with local, regional, state and federal laws;
8. Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued;
9. Unlicensed or unregistered vehicles operated to support primary uses on commercial, agricultural, or industrial premises;
10. Motor vehicles or recreational vehicles on public display that are for sale, lease, or rent and that are located on premises lawfully permitted and licensed to sell, lease, or rent such vehicles;
11. Recreational vehicles on residential or agricultural premises suitable for activities that are appropriate for the season.

G. Administration and Enforcement.

1. The Code Enforcement Officer (CEO) of the Town is hereby designated, unless otherwise designated by the Town, as the officer(s) charged with the enforcement of this section and is hereinafter referred to as the CEO. The CEO shall make periodic inspections of the Town to ensure that violations of this statute do not

exist, and the requirements of this law are met. Any observed violations shall be noted and the property owner contacted for compliance.

2. The CEO shall enter the premises of any private property with the consent of the owner or upon a proper court order, or may make an evaluation from any public way.

H. **Inspections.** Whenever there is reasonable cause to believe that the provisions of this chapter are violated, the CEO or any lawfully authorized agent of the Town, shall make an inspection of the property involved and shall prepare a written report of the conditions found, which report shall be filed with the ZBA.

I. **Notice of Violation.** If conditions existing on the inspected property violate the provisions of this chapter, the CEO, sheriff or other lawfully designated officer or employee shall serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent, as well as upon the lessee or occupant of said premises.

1. Said notice shall contain substantially the following: the name of the owner and, if applicable to the violations, the lessee or occupant of the premises; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll; a statement of the conditions on the property deemed upon inspection to be in violation of this chapter; demand that the junk, rubbish, or nuisances to be in violation of this chapter be removed from public view on or before 10 days after the service or mailing of such notice; a statement that a failure to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a lawfully authorized officer or agent of the Town entering upon the property and removing the violation and causing the same to be disposed or otherwise destroyed; a statement that any expenses assumed by the Town for such disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.
2. Said notice shall contain the date, time, and location at which the Johnstown Town Court will conduct its next scheduled meeting that is not less than 10 days after the notice of violation. Said notice shall state that the property owner, his/her agent, lessee, or occupant is entitled to be heard at such meeting and present evidence and testimony. The meeting shall follow the procedures for notification

of any Johnstown Town Court meeting and, if required, be published in a paper of general circulation in the Town at least 10 days prior to the date of the meeting.

3. Nothing contained herein shall require notice as a prerequisite to the issuance of a summons or appearance ticket for a violation of this chapter

J. **Second Inspection Report.** On or before the date of the Johnstown Town Court hearing and prior to commencement of said hearing, the CEO or other lawfully authorized agent shall conduct a second inspection of the property and file a written report of the conditions deemed in violation of this chapter found thereon with the Johnstown Town Court. Such inspection shall be conducted as close to the date of the public hearing as practicable.

K. **Declaration of Public Nuisance and Remediation.** The Johnstown Town Court shall determine if the condition upon the subject property, which violates this chapter, constitutes a public nuisance. Upon a determination by the Court that conditions upon the property constitute a public nuisance, the Court is empowered to authorize officers or a lawfully authorized agent of the Town to enter onto the property to remove any junk, rubbish, or nuisance whenever there exists an imminent threat to the life or safety of persons. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation. A property owner shall be given notice and an opportunity to be heard prior to any costs and expenses incurred pursuant to this section being placed as a lien against the real property upon which the violation occurred.

L. **Judicial Relief.** Nothing contained in this chapter shall prevent the Town from seeking judicial or equitable relief to abate violations of this chapter.

M. **Penalties.**

1. Any person who violates any of the provisions of this local law shall be guilty of an offense and subject to a mandatory fine prescribed by a fine schedule for the first violation and each offense thereafter.
2. Every person shall be deemed guilty of a separate offense for each day such violation continues.

3. The sum of all fines and penalties incurred by the violator and all costs assumed by the Town for the removal and disposal of materials in violation of this Chapter shall constitute a lien against the real property upon which the violation occurred.
4. In the case that the true owner of the material in violation of this code is not the same as the occupant or owner of the real property upon which the violation occurred, any liens resulting from violations of this Chapter shall be recorded against the responsible party and any real property thereof situated within the Town of Johnstown. This shall be the case so long as the occupant or owner of the property upon which the violation occurred had not accepted or otherwise allowed conditions to persist whereby a violation of this Chapter would reasonably be expected to occur.

N. **Severability.** If any clause, sentence, paragraph, section or article of this Section shall be adjusted by any court of complete jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 84 -21. Signs – Zoning District Regulations.

A. **Purpose.** The purpose of this Article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor signs of all types. Regulations governing signage are intended to protect property values, create a more attractive economic and business environment, enhance and protect the physical appearance of the community, preserve the natural and rural beauty, and provide a more enjoyable and pleasing community.

These regulations are intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community appearance and attractiveness. The location, size, materials, and method of construction of signs affect the character of the community. The Town of Johnstown seeks to promote attractive signs that clearly present the sign message in a manner that is compatible with their surroundings, and signs should, therefore convey their messages clearly and simply to enhance their surroundings.

B. **Compliance.** The size, type and location of any sign or advertising device shall be in accordance with the following regulations (Refer to Appendix B “Dimensional Requirements Table” for additional information regarding signage):

1. **Noncommercial Signs.** Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this law.

2. **Signs for R1 Districts**

a. **Nameplates.** Nameplates and identification signs indicating the name and address of the occupant or permitted home occupation in any residence shall be permitted, provided that such signs shall not exceed 2 square feet in area and shall not emit any flashing or intermittent illumination.

b. **Institutional Signs.** Signs for institutions such as schools, places of worship, hospitals or other public and semipublic institutions shall be permitted, provided that such signs shall not be greater than 15 square feet in area and shall not emit any flashing or intermittent illumination.

3. **Signs in R 2 Residence Districts and RPO District.**

a. **Nameplates.** Nameplates and identification signs indicating the name and address of the occupant or permitted home occupation in any residence shall be permitted, provided that such signs shall not exceed 2 square feet in area and shall not emit any flashing or intermittent illumination.

b. **Institutional Signs.** Signs for institutions such as schools, places of worship, hospitals or other public and semipublic institutions shall be permitted, provided that such signs shall not be greater than 15 square feet in area and shall not emit any flashing or intermittent illumination.

c. **Business Signs.** Business signs pertaining to permitted uses or to a legal nonconforming use of the premises on which it is located shall be permitted, provided that such signs shall not exceed 20 square feet in area and shall not emit any flashing or intermittent illumination. No dimension of the business sign shall exceed 6 feet. An increase in sign area for legal nonconforming uses shall not be permitted in R residential districts.

- d. **Temporary Signs.** Temporary signs such as advertising the sale, rental, construction or improvement of the premises on which they are located shall be permitted, provided that such signs shall not exceed 6 square feet in area and shall not be illuminated, and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.
- e. **Off-Premise Signs Prohibited.** Signs advertising functions, uses, products or services not pertaining to the premises on which they are located shall not be permitted in any R Residential District, except for Temporary Signs as defined in this Chapter.

4. Signs in C Commercial Districts.

- a. Signs permitted in R-Residential and RPO Districts
- b. **Business Signs.** Signs located on the premise of an establishment and signifying a product or service on the premises on which they are located shall be permitted, provided that the aggregate area of all signs on the premises shall not be greater than 3 square feet for each foot of frontage actually occupied by such use, building or parking area, but not exceeding 200 square feet of aggregate sign area.
- c. **Temporary Signs.** Temporary signs advertising the sale, rental, construction or improvement of the premises on which they are located shall be permitted, provided that such signs shall not exceed 40 square feet in area and shall not be illuminated, and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply, except Temporary signs as allowed in R2 and RPO Districts.
- d. **Off-Premise Signs Prohibited.** Signs advertising functions, uses, products or services not pertaining to the premises on which they are located shall not be permitted in any C Commercial District except Temporary signs as allowed in R2 and RPO Districts.

5. Signs in M-1 Manufacturing District and CID County Institution District.

- a. Signs permitted in C Commercial Districts.

- b. **Temporary Signs.** Temporary signs advertising the sale, rental, construction or improvement of the premises on which they are located shall be permitted, provided that such signs shall not exceed 100 square feet in sign area and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.
- c. **Off Premise Signs Allowed. (Not Permitted in CID)** Signs pertaining to functions, uses, products or services whether or not pertaining to the premises on which they are located, shall be permitted, provided that such signs shall not exceed 300 square feet in area and shall not direct any source of illumination toward any public street or adjacent residential property.

6. **Signs in AUZ District.**

- a. Signs permitted in the R Residential Districts.
- b. **Business Signs.** Business signs pertaining to permitted uses or to a legal nonconforming use, on the premises on which it is located shall be permitted, provided that the aggregate area of all signs on the premise shall not be greater than 3 feet for each foot of frontage, but not exceeding 200 square feet of aggregate sign area.
- c. **Temporary Signs.** Temporary signs advertising the sale, rental, construction or improvement of the premises on which they are located, or advertising the sale of agricultural products or goods produced on premises and in-season shall be permitted, provided that such signs shall not exceed 40 square feet in sign area and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.
- d. **Off Premise Signs Prohibited.** Signs advertising functions, uses, products or services not pertaining to the premises on which they are located shall not be permitted in any AUZ District, except for Off-Premise signs allowed in R2 and RPO Districts.

Section 84-21.B. Signs – General Regulations.

A. Sign Permit Required for Certain Signs.

1. **Permit.** A sign permit is required in the following cases:

- a. For any new temporary sign having 4 square feet of area or more;
- b. For any new permanent or constructed signs, exclusive of lawful
 - i. nameplates
 - ii. identification signs for a building which is used as a residence
 - iii. window signs

2. **Permit Application.** An applicant for a sign permit shall submit on forms provided by the Town all necessary information pertaining to size, location, and sign construction sufficient for the Planning Board to determine conformance with this Chapter. Permit fees shall be set by the Town Board.

B. Number of Signs. Exclusive of directional signs, the number of signs permitted on any single parcel shall not exceed 3 per establishment. In no case shall the number of freestanding signs exceed 1. In addition to the forgoing, up to 2 directional signs may be permitted per parcel.

C. Well Maintained. Signs shall be constructed of durable materials and shall be kept visibly free of cracks, kinks or bends, corrosion, rot, peeling paint and other evidence of fatigue and excessive wear and tear. Signs, which are permitted to deteriorate, shall be removed at the owner's expense upon direction of the Code Enforcement Officer (CEO) following notification to the owner. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and individually liable to maintain such sign, including its illumination sources, in a neat and orderly condition.

D. Measuring Sign Area. Unless otherwise prescribed herein, sign area shall be calculated by measuring the outer frame of the sign face. Any support structure shall

be excluded from the calculation, unless to the average observer and that by design or construction the support itself appears to direct attention.

1. **Wall Signs.** For wall signs and signs painted on walls, the area shall be calculated by measuring the area contained within a hypothetical and continuous perimeter drawn around words, emblems, and logos that constitute the sign. Such perimeter shall be non-intersecting, except where two end-points meet to create an enclosed perimeter, and shall contain 8 or fewer vertices, and shall be rendered in a manner that results in the smallest calculable area for a proposed or existing sign.

2. **Painted Exterior Walls.** Expanses of uniform color painted on a wall that extends to all or most edges of that exterior wall and is accompanied by sign copy, even in cases where the color may be construed to be part of the sign, may be excluded from sign area calculation except for the portion of such area enclosed within the perimeter drawn around the ostensible sign copy.

E. **Attached Signs, Maximum Height.** No sign shall be higher than the building to which it is attached.

F. **Removal of Hazardous Signs.** No sign shall be erected which, in the opinion of the Town CEO, may cause hazardous or unsafe conditions. Such signs shall be removed upon direction of the Town CEO following notification to the owner, unless such sign is erected within a public right of way.

G. **Signs in right-of-way.** No sign, other than an official traffic or public information sign, shall be erected or project within the right-of-way line of any public street.

H. **Directional signs.** No more than two onsite directional signs per parcel shall be permitted in a C-commercial or M-manufacturing district. Directional signs shall be prohibited in all other districts. The following standards shall apply:

1. Each directional signs shall be less than 4 square feet;
2. Each directional sign shall be no more than 4 feet above grade;
3. Directional signs shall not be illuminated;
4. Directional signs shall only be two colors, of which one shall be the background;

5. Directional signs shall be located and designed so as to not obstruct the vision of pedestrians or drivers of motor vehicles.
- I. **Sidewalk right-of-way.** No signs affixed to a building may project into public sidewalk right-of-way, such that the bottom most portion of the sign is 7 feet above a walkway and does not otherwise impede pedestrian traffic or result in the creation of a public safety concern.
- J. **Direction of Illumination.** No sign shall have a source of illumination directed toward a public street or adjacent property.
- K. **Steady Illumination.** Sign illumination shall be steady, regardless of changes to sign copy.
- L. **Off Premise Signs, newly permitted.** Off-premise signs are prohibited in all zoning districts, except in the M-1 Zoning District.
- M. **Portable Signs.** Portable signs are prohibited in all districts. Sandwich boards are expressly exempt from this prohibition and shall comply with all other standards in this Section.
- N. **Motion.** Any sign permitted by this Article shall not rotate, rock, or otherwise move, and shall not contain sign copy that is flashing, scrolling, or projected.
- O. **Wall Signs, additional standards.** In addition to other applicable requirements, wall signs shall comply with the following standards
 1. The sign structure shall not protrude beyond the outer edge of any wall of the building to which it is attached;
 2. The sign structure shall not project above the eaves of the building to which it is attached;
 3. The sign structure shall be plumb and level with the horizontal
- P. **Maximum Height.** No freestanding sign shall exceed 12 feet in height in R-Districts, RPO Districts, and the AUZ. No freestanding sign shall exceed 15 feet in height in C-

Districts. No freestanding sign shall exceed 25 feet in height in the M-1 District or CID.

- Q. **Changes to Sign Copy.** Signs shall display no more than 4 changes daily to sign copy, excluding displays of time, temperature, or price.
- R. **Window Signs.** Window Signs are permitted on ground-level floors only. Window signs shall occupy no more than one-quarter of the window area of the ground floors.
- S. **Non-conforming signs.** Signs existing on the effective date of this Law, which do not conform to the regulations set forth in this Law, are a non-conforming use.
1. All pre-existing non-conforming signs shall comply with the standards and requirements of this Chapter at the time when the sign's structural features are more than 30 percent replaced or repaired at any one time, or when a change in use or business has occurred on the premise. Any sign not expressly permitted by this Chapter shall be considered non-conforming and removed.
 2. Changes to sign copy (where the sign copy is not materially embodied in the sign structure) or the routine maintenance of structural elements of non-conforming signs shall by itself not be considered a replacement or alteration compelling compliance with this Chapter.
 3. A sign recognized as a contributing historical element of a federal, state, or local registered historical landmark shall not be deemed non-conforming by the Town.
- T. **Abandonment.** Any sign freestanding or affixed sign which advertises or identified products, businesses, services or activities which have not been sold, located or carried on at the premises for at least sixty days may be deemed abandoned by the CEO. The owner shall remove the sign within ten days of notification of a finding of abandonment.
- U. **Design guidelines.** In order to promote harmonious design and preserve community character, owners of signs subject to this Article should observe the following guidelines:
1. Signs and sign copy should relate with and not cover architectural features or details, and should be in proportion to them

2. Groups of related signs or multiple signs located on the same premises should express visual uniformity and create a sense of harmonious appearance.

Section 84 -22. Tree Removal.

- A. **Purpose.** In order to promote the public health, safety, and welfare, tree removal during permitted construction activities and along certain streams will be subject to the provisions contained in this Section. Forestry and related businesses are recognized as a valuable and desired economic activity in the Town. Likewise, the Town's rural heritage, forests, and natural streams are integral to the character of the Town, as set forth in the Town's 2006 Master Plan. As such, the Town's forests and trees are important economic, aesthetic, and natural assets, and provide a substantial benefit by reason of reduced erosion rates, reduced stormwater runoff rates, and by the provision of shade to moderate stream water temperatures. The following provisions are intended to preserve and promote these natural and freely provided services along streams and on hillsides. No part of this section shall be construed as limiting reasonable economic benefits from sustainable forestry practices as otherwise permitted by applicable law.
- B. **Requirements.** The following requirements shall apply to all zoning Districts for the Town, but shall not supercede the shoreline restrictions of §806 of the Adirondack Park Agency for projects within the Adirondack Park:
1. **Stream Buffers.** Only trees less than 6 inches DBH (Diameter at Breast Height) may be removed within 18 feet of the mean high water mark of a stream that is classified or classifiable by the New York State Department of Environmental Conservation.
 2. **Construction Activities.** The following requirements shall apply to permitted construction activities:
 - a. Only trees less than 6 inches DBH may be removed from slopes in excess of 15 percent.
 - b. Only trees less than 6 inches DBH may be removed from ridgelines and within 25 vertical feet of a ridgeline. Ridgeline means the crest of a hill which

has the potential to create a silhouette against the sky when viewed from a common public viewing area.

3. **Removal of Trees over 6 inches DBH.** Notwithstanding subsections 1 and 2, above, trees in excess of 6 inches DBH may be removed to the minimum degree necessary to:
 - a. Remove an imminent threat to life and property.
 - b. Provide access for any permitted crossings for vehicular circulation, pedestrian and recreational access, utilities, agricultural, and livestock crossings.
 - c. Create a 25 foot building envelope around the footprint of proposed structures located on slopes in excess of 15 percent.
 - d. To perform grading of the site pursuant to an approved site plan, if required.
 - e. Create during permitted construction activities a preferred view from dwelling units. Typically, such views can be successfully achieved with the selective trimming of tree limbs and under story brush, and such trimming should be examined as the preferred option prior to the decision to remove a tree. The wholesale removal of a stand of trees shall be an insufficient means for the creation of a view.
4. **Subdivision of Clear-Cut Lands Prohibited.** No parcel or portion of a parcel containing lands that have been clear-cut of forests within the previous five years or since the adoption of this Article, whichever length of time is shorter, shall be considered by the Town for subdivision approval. Clear cutting means a timber harvest or tree removal impacting an area greater than five acres in size that results in the wholesale removal of trees and vegetation, and after which there no longer exists a tree stand containing a variety of growing stocks of trees of varying ages, and that are well distributed in a manner sufficient to screen the view of structures from public lands, roads, or vantage points. Parcels containing lands that have been timber harvested pursuant to a sustainable forestry yield plan shall be exempt from this restriction.

Section 84 -23. Wireless Communication Towers.

A. **Purpose.** The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. In order to accommodate the communication needs of residence and businesses while protecting the public health, safety and general welfare of the community, the Town of Johnstown finds that these regulations are necessary in order to:

1. Facilitate the provision of wireless telecommunications services to residents and businesses of the town.
2. Minimize adverse visual affects of towers through careful design and siting standards.
3. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
4. Encourage the location of towers in non-residential areas.
5. Minimize the total number of towers throughout the community.
6. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
7. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
8. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
9. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
10. Consider the public health and safety of communication towers.
11. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

B. Definitions. As used in this Chapter, the following terms shall have the meanings set forth below:

Alternative tower structure shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna shall mean any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Height shall mean, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting antennas shall mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Article, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

C. **Applicability.** This Article shall apply in the following cases:

1. **New Towers and Antennas.** All new towers or antennas in the Town of Johnstown shall be subject to these regulations, except as follows:
 - a. **Amateur Radio Station Operators/Receive Only Antennas.** This Article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
 - b. **Preexisting Towers or Antennas.** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Article, except as provided by applicable building codes, safety standards, and state and federal rules and regulations.
 - c. **AM Array.** For purposes of implementing this Article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

D. **General Requirements.**

1. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
2. **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the least area within the larger parcel of land shall control.
3. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Code Enforcement Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Johnstown or within one mile of the border thereof,

including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Article or other organizations seeking to locate antennas within the jurisdiction of the Town of Johnstown provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. **Aesthetics.** Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
5. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views.
6. **State or Federal Requirements.** All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

7. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Johnstown concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
8. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Johnstown irrespective of municipal and county jurisdictional boundaries.
9. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
10. **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town of Johnstown have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
11. **Public Notice.** For purposes of this Article, any site plan review, variance request, or appeal of an administratively approved use or site plan shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2, Existing Towers- Type, hereafter, in addition to any notice otherwise required by the Zoning Article.
12. **Signs.** No signs shall be allowed on an antenna or tower.
13. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the provisions of Section, Building or Other Equipment Storage, hereunder.

14. **Multiple Antenna/Tower Plan.** The Town of Johnstown encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

E. **Permitted Uses.** The uses listed hereunder are deemed to be permitted uses and shall not require administrative approval or a site plan approval: Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Johnstown provided a license or lease authorizing such antenna or tower has been approved by the Town of Johnstown.

F. **Administratively Approved Uses.**

1. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

- a. The Code Enforcement Officer may administratively approve the uses listed in this Section.
- b. Each applicant for administrative approval shall apply to the Code Enforcement Officer providing the information set forth Subsection G, Paragraph 2 hereunder and Subsection I of this Article. and a nonrefundable fee as established by resolution of the Town of Johnstown to reimburse the Town of Johnstown for the costs of reviewing the application.
- c. The Code Enforcement Officer may review the application for administrative approval and determine if the proposed use complies with the provisions of Subsection D, General Requirements, and any applicable setbacks and separation distances established in Section, Site Plan Review, of this Article.
- d. The Code Enforcement Officer shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the Code Enforcement Officer fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
- e. In connection with any such administrative approval, the Code Enforcement Officer may, in order to encourage shared use, administratively waive any

zoning district setback requirements as established in this Article or separation distances between towers as established in this Article. No waiver shall allow changes exceed one hundred and 50 percent of the original figures.

- f. In connection with any such administrative approval, the Code Enforcement Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
- g. If an administrative approval is denied, the applicant may file an application for a site plan review as contained in this Article.

2. **List of Administratively Approved Uses.** The following uses may be approved by the Code Enforcement Officer after conducting an administrative review:

- a. Locating antennas on existing structures or towers consistent with the following conditions:
 - i. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Code Enforcement Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:
 - (a) The antenna does not extend more than 30 feet above the highest point of the structure;
 - (b) The antenna complies with all applicable FCC and FAA regulations; and
 - (c) The antenna complies with all applicable building codes.
 - ii. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Code Enforcement Officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

- (a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Code Enforcement Officer allows reconstruction as a monopole.
 - (b) Height. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna. Such modification shall only occur once per the life of the tower. Such modification shall require an additional distance separation as set forth in Section, Site Plan Review, of this Article. The tower's pre-modified height shall be used to calculate such distance separations.
 - (c) Onsite location A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section, Site Plan Review, of this Article. The relocation of a tower hereunder shall in no way be deemed to cause a violation of separation distances established in Section, Site Plan review, of this Article.
 - (d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section, Site Plan Review, shall only be permitted when approved by the Code Enforcement Officer.
- iii. **New towers in non-residential zoning districts.** Locating any new tower in a non-residential zoning district, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Code Enforcement Officer concludes the tower is in conformity with the purposes set forth in this Article and the requirements of Section, General Requirements, of this Article; the tower meets the setback requirements and separation distances established in this Article; and the tower meets the following height and usage criteria:

- (a) for a single user, up to 90 feet in height;
 - (b) for two users, up to 120 feet in height; and
 - (c) for three or more users, up to 150 feet in height.
3. Locating any alternative tower structure in a non-residential zoning district that in the judgment of the Code Enforcement Officer is in conformity with the purposes set forth in this Article.
 4. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

G. Site Plan Review.

1. The following provisions shall govern the review of site plan applications for towers or antennas by the Planning Board:
 - a. If the tower or antenna is not a permitted use or a use requiring an administrative approval pursuant to this Article, then a site plan review shall be required for the construction of a tower or the placement of an antenna in all zoning districts except for the R-1 Residential Districts.
 - b. Applications for site plan review under this Section shall be subject to the site plan procedures and requirements of this Code, except as modified in this Section.
 - c. In granting approval of a site plan application, the Planning Board may impose conditions to the extent the Planning Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

- d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
 - e. An applicant for a site plan review shall submit the information described in this Section and a non-refundable fee as established by resolution of the Johnstown Town Board to reimburse the Town of Johnstown for the costs of reviewing the application.
2. **Site Plan Information.** In addition to any information required for applications for site plan review pursuant to this Chapter, applicants for a site plan review for a tower shall submit additionally the following information:
- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning of the site and all properties within the applicable separation distances set forth in this Article, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Board to be necessary to assess compliance with this Article.
 - b. Legal description of the parent tract and leased parcel (if applicable).
 - c. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.
 - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Paragraph C of Section, General Requirements, shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - e. A landscape plan showing specific landscape materials.
 - f. Method of fencing, finished color and, if applicable, the method of camouflage and illumination.

- g. A description of compliance with Paragraphs (3), (4), (5), (6), (7), (10), (12), and (13) of Subsection G, General Requirements, of this Section and the height and separation distances prescribed in this Article and all applicable federal, state or local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- k. A description of the feasible location(s) of future towers or antennas within the Town of Johnstown based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

H. Site plan review considerations. In addition to any standards for consideration of site plan applications pursuant to this Chapter, the Planning Board shall consider the following factors in determining whether to issue a site plan approval, although the Planning Board may waive or reduce the burden on the applicant of one or more of these criteria if the Planning board concludes that the goals of this Article are better served thereby:

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;

- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

I. **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- J. **Setbacks.** The following setback requirements shall apply to all towers for which a site plan review is required; provided, however, that the Planning Board may reduce the standard setback requirements if the goals of this Article would be better served thereby:
- 1. Towers must be set back a distance equal to at least one-hundred percent (100%) of the height of the tower from any adjoining lot line and/or leased area.
 - 2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- K. **Separation.** The following separation requirements shall apply to all towers and antennas for which a site plan review is required; provided, however, that the Planning Board may reduce the standard separation requirements if the goals of this Article would be better served thereby.
- 1. Separation from off-site uses/designated areas. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Residential dwelling units ¹	200 feet or 300% height of tower whichever is greater
R-1 residentially zoned land	200 feet or 300% height of tower ² whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to closest building setback line.

2. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:
Existing Towers - Types

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1,500	750
Guyed	5000	5000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

3. **Security fencing.** Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Board may waive such requirements, as it deems appropriate.
4. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a site plan review is required; provided, however, that the Planning Board may waive such requirements if the goals of this Article would be better served thereby.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

L. Buildings or Other Equipment Storage.

1. **Antennas Mounted on Structures or Rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:
 - a. The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 - b. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25 percent of the roof area.

- c. Equipment storage buildings or cabinets shall comply with all applicable building codes.
2. **Antennas Mounted on Utility Poles or Light Poles.** The equipment cabinet or structure used in association with antennas shall be located in accordance with the following.
- a. In residential districts, the equipment cabinet or structure may be located:
 - i. In a front or side yard provided the cabinet or structure is no greater than 8 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of 10 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 72-84 inches and a planted height of at least 48 inches.
 - ii. In a rear yard, provided the cabinet or structure is no greater than 10 feet in height or 200 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches.
 - b. In commercial or industrial districts the equipment cabinet or structure shall be no greater than 10 feet in height or 250 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches.
3. **Antennas Located on Towers.** The related unmanned equipment structure shall not contain more than 250 square feet of gross floor area or be more than 10 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
4. **Modification of Building Size Requirements.** The requirements of Subsection A through C of Section, Buildings and Other Equipment, may be modified by the Code Enforcement Officer in the case of administratively approved uses or by the

Planning Board in the case of uses subject to site plan review to encourage collocation.

M. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town of Johnstown notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

N. Nonconforming Uses.

1. **Not Expansion of Nonconforming Use.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. **Preexisting towers.** Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Article.
3. **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.** Notwithstanding Subsection M, above, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a site plan approval and without having to meet the separation requirements specified in this Article. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in this Article.

O. Severability. The various parts, sections and clauses of this Article are hereby declared to be severable. If any part, sentence, paragraph, section or clause is

adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Article shall not be affected thereby.

- P. **Repealer.** Any Articles or parts thereof in conflict with the provisions of this Article are hereby repealed to the extent of such conflict.

Section 84 -24. Wood Boilers – Outdoor.

- A. **Intent.** It is the intent of the Town Board to establish and impose conditions upon the construction, placement, and operation of outdoor wood boilers for the purpose of promoting the public health, safety, and welfare of the Town and its residents. The Town recognizes that the types of fuel uses, and the scale and duration of burning by such boilers creates noxious and hazardous smoke, soot, fumes, odors and air pollution. These impacts can deprive neighboring residents of the enjoyment of their property or premises.
- B. **Standards.** When used to heat or supply energy on parcel where the primary structure or use is residential, an outdoor wood boiler shall be considered an accessory use. Such accessory use shall comply with the following conditions:
1. **Fuel.** Only firewood and untreated lumber shall be used as fuel. The combustion of garbage and domestic waste in outdoor wood boilers is expressly prohibited.
 2. **Setbacks.** Outdoor wood boilers shall not operate any closer than 300 feet to a residential or commercial structure not occupied or controlled by the operator of the wood boiler. In no case shall a wood boiler operate closer than 100 feet from the lot line of a parcel having a residential or commercial structure not occupied or controlled by the operator of the wood boiler.
 3. **Installation and Maintenance.** Outdoor wood boilers shall be installed, maintained, and operated in conformance with manufacturer’s specifications and all other applicable laws.
 4. **Spark Arrestor.** All outdoor wood boilers shall be equipped with an operable spark arrestor.
 5. **Smoke Exhaust.** The operator of outdoor wood boilers shall take all reasonable measures to limit or avoid the flow of odors and smoke to neighbors, the

interference with the enjoyment of life and property, damage to vegetation or property; and harm to human health. Measures such as the provision of additional distance or the use of a smoke stack should be considered by the operator.

6. **Conflict with other laws.** Nothing in this subsection shall authorize burning which is prohibited by other applicable local, state or federal laws or regulations.

ARTICLE 7 NON CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

Section 84 -25. Purpose.

- A. The general purpose of regulating nonconforming uses, structures and lots is to allow for the continued existence of such uses, structures and lots after a zoning change which would otherwise prohibit such use, structure or lot while gradually bringing everything into conformance by regulating how such uses and structures can be reestablished, repaired and restored. Additionally, these regulations allow the nonconforming uses and structures to be physically maintained, and encourage their upkeep so as to preserve safety, functionality and appearance within the Town.

Section 84 -26. Non-Conforming Uses, Buildings and Structures.

- A. **Continuation.** Any nonconforming use, building or structure which existed lawfully at the time of enactment of this chapter may be continued, subject to the regulations which follow in this Article.
- B. **Nonconforming use of land.** The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.
- C. **Nonconforming use of buildings.** Nonconforming use of a building shall conform with the following regulations:
1. **Additions.** Additions or enlargements shall not exceed 20 percent of the floor space of the pre-modified, nonconforming building. Changes in excess of 20 percent shall be allowed only if the nonconforming building and the use thereon are made to conform to all the regulations of the district in which it is located. Any addition or enlargement shall be in conformance with all applicable setback requirements, among others.

2. **Alterations and repairs.** No structural alterations shall be made to any nonconforming building unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a nonconforming building or structure in sound condition shall be permitted.
3. **Change of Nonconforming Use.** A nonconforming use may be continued, discontinued, or changed to a conforming use. When so changed, the nonconforming use may not be resumed. In no case shall a nonconforming use be changed to a different nonconforming use.
4. **Discontinuance.** A nonconforming use of a building or structure or a portion thereof which is discontinued shall not be lawfully reestablished as a nonconforming use. Subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:
 - a. Vacancy of a nonconforming use building or discontinuance of a nonconforming use for a period of 12 consecutive months.
5. **Restoration.** A nonconforming building or use which is more than 50 percent destroyed as measured as a percent of floor area and as certified by either the Fire Chief, Code Enforcement Officer, or their designee shall be rebuilt, repaired, restored, or rehabilitated in full conformance with all applicable laws.
 - a. Eligible or duly registered federal or state historic structures may be exempt from the strict application of rules pertaining to nonconforming uses. Such structures may be rehabilitated pursuant to a plan reviewed by a historic preservation architect who certifies that the proposed rehabilitation plan will restore the historical character of the structure. However, damaged interior spaces and future interior uses shall be made to conform to all regulations of the district in which it is located.
6. **Removal.** If any building in which any nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform to the regulations of the district.

D. **Validity of permit.** Any building for which a permit has been lawfully granted and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

Section 84 -27. Non-Conforming Lots.

- A. If a lot of record, duly existing prior to the adoption of this Zoning Law or any applicable amendment thereto, fails to meet applicable density, set back or lot size standards as set forth herein, the lot may be developed with any compatible use listed for the zoning district in which such nonconforming lot is located provided that such lot has sufficient width, depth, and area to undertake development that will meet at least two-thirds of the current minimum yard setbacks and other dimensional requirements. Where two-thirds of current minimum yard setbacks and other dimensional requirements cannot be met, the owner shall have the right to apply for one or more area variances. All other provisions of this Zoning Law or other laws or regulations, which may be applicable, must also be met.
- B. The development of a nonconforming lot of record shall require site plan approval from the Planning Board and comply with the following conditions:
1. All health department regulations shall be satisfied.
 2. Any residential use of such a nonconforming lot shall be limited to a one-family dwelling.

ARTICLE 8 SUPPLEMENTARY REGULATIONS FOR SPECIAL USES

In addition to what is set forth in this Article, there are additional standards and requirements within this Chapter that apply to the following uses, including but not limited to the zoning districts in which these uses are allowed and bulk standards.

Section 84 -28. Adult Uses.

A. **Findings and Purpose.** The Town of Johnstown has examined and reviewed studies conducted to assess the secondary effects of adult uses, and deems that such studies and their conclusions are relevant to the concerns and circumstances of the Town of Johnstown, primarily the protection of safety, community character, quality of life, and economic development. The Town hereby finds that the following regulations are necessary to lessen or prevent the adverse secondary effect of adult entertainment uses. The provisions of this law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly it is not the intent or effect of this local law to restrict or deny access by adults to sexually oriented materials protected by the New York State and United States Constitutions, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their market.

B. Definitions

1. **Adult Use** shall be interpreted to mean only the following:
 - a. **Adult Bookstore** shall mean an establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of sexual activities or anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with sexual activities. Adult bookstores shall not have enclosed viewing booths. For purposes of this paragraph, substantial shall mean more than 40 percent of the building's sale floor area.
 - b. **Adult Cabaret** shall mean a nightclub, bar, restaurant, or similar establishment that routinely features live performances that are characterized

by the exposure of anatomical areas or by specified sexual activities. Adult cabarets shall not have enclosed viewing booths.

- c. **Adult Motion Picture Theatre** shall mean an establishment where, for any form of consideration, films or motion pictures are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of sexual activities or anatomical areas. Adult Motion Picture Theaters shall not have enclosed viewing booths.
2. The following definitions are of uses prohibited from locating and/or operating in any District within the Town of Johnstown:
- a. **Adult Hotel or Motel** shall mean a hotel or motel or similar business establishment offering public accommodations for any form of consideration that
 - i. provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of sexual activities or sexual activities or anatomical areas; and/or
 - ii. rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.
 - b. **Adult Massage Parlor** shall mean an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered characterized by an emphasis on sexual activities or anatomical areas.
 - c. **Adult Modeling Studio** shall mean an establishment whose primary business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

- d. **Adult Sauna** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on sexual activities or anatomical areas.
- e. **Sexual Encounter Establishment** shall mean an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

C. **Restrictions.** Adult Use Establishments shall be permitted subject to the following restrictions:

1. The establishment of any Adult Use shall be restricted to areas within the RA District.
2. No more than one Adult Use establishment shall be located on any lot.
3. Any Adult Use establishment shall be located no closer than within 2,500 feet of the parcel boundary of existing adult use establishment.
4. No Adult Use establishment shall be located within 1,000 feet of the property line of a parcel on which is located a public or private school, day care facilities, public libraries, public parks and playgrounds, place of worship, community and youth recreation centers, cemeteries, and federal, state, or local registered historic sites.
5. No Adult Use establishment shall be located within 1000 feet of any single-family, two-family, or multiple-family dwelling, and any lawful accessory dwellings.
6. The Adult Use shall be conducted entirely within an enclosed building, and no part of the Adult Use shall be visible from a public right-of-way.

7. No outside displays or advertising other than an approved sign shall be allowed.

Section 84 -29. Agricultural Produce Stand.

- A. **Intent.** Agricultural Produce Stands are encouraged to promote the development of direct marketing to the public of agricultural goods locally produced and minimally processed. Agricultural produce stands may not interfere with traffic safety and shall not detract from the essential character of the zoning district in which it is located.
- B. **Permit Required.** The owner and operator of an agricultural produce stand shall adhere to all applicable rules and regulations governing the creation or modifications of structures for the proposed uses to be performed within the structure. Likewise, said owner shall obtain all applicable permits and licenses for food storage and handling for lawful operation of the stand. A building permit issued for said use shall indicate the hours of operation, the building construction and maintenance standards that must be adhered to in order for the permit to maintain its validity, the length of permit validity, applications, and fees shall be established by the Town.
 1. **Signage.** Signage on the premise shall conform with all applicable restrictions for the district in which the agricultural produce stand is located.
 2. **Number of Stands.** A permit shall not be issued for more than one agricultural produce stand per parcel.
 3. **Setbacks.** Agricultural produce stands shall be set back not less than 20 feet from a public road right-of-way. All other setbacks pertaining to detached accessory buildings as set forth in this Chapter shall be adhered to.
 4. **Parking, Ingress, and Egress.** Parking shall be provided such that it creates no reasonably foreseeable hazard for ingress and egress to the stand. Standard residential and farming driveways, gravel, and macadam surfaces are the preferred surfacing for parking.
- C. No permit shall be required for agricultural produce stands that meet each of the following requirements:
 1. Is temporary, portable, and covers less than 150 square feet in area;

2. Is able to operate without a utility connection;
3. By reason of placement, does not interfere with or create a reasonably foreseeable danger to traffic;
4. Provides sufficient space for safe traffic ingress, egress, and parking;
5. Trash is properly disposed of and the stand area is maintained in a tidy manner.

Section 84 -30. Aquaculture Facility

A. **Minimum Requirements.** In any district where permitted, aquaculture facilities shall conform to the following standards, which shall be regarded as minimum requirements:

1. **State and Federal Requirements.** Aquaculture facilities shall comply with all applicable NYSDEC other New York State regulations and applicable federal requirements.
2. **Views.** Any structures or outside storage areas shall be adequately screened from view of abutting properties.
3. **Noise.** The facility shall not emit noise in excess of 60 decibels at any adjoining property line. The Planning Board shall consider the potential impact on surrounding properties from the duration, pitch and frequency of use of the facility in reviewing an application for the Special Use Permit.
4. **Deliveries.** Deliveries and shipments shall be kept to a minimum and should not exceed 4 deliveries and shipments per day. Impacts on local roads and residential areas shall be avoided or mitigated to maximum extent practicable.
5. **Air Pollution.** Adverse air impacts shall be avoided or mitigated to the maximum extent practicable.
6. **Setbacks.** All facilities shall be located a minimum of 1,000 feet from the nearest residential structure not owned by the owner or operator of the facility.

7. **Lot Size.** Aquaculture facilities shall not be located on a parcel less than 5 acres without an area variance.
8. **Application Notification.** All owners of property located within 1,000 feet of the property upon which an aquaculture facility is proposed shall be notified of such application prior to a public hearing before the Planning Board.
9. **Performance Guarantee.** No Certificate of Compliance shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board and it may consult with the Code Enforcement Officer, Town Attorney and other appropriate parties in making such determination.

Section 84 -31. Auto Body & Paint Shop and Auto Service Repair Garage.

A. **Minimum Requirements.** In any district where permitted, auto body and service or repair garages shall conform to the following standards, which shall be regarded as minimum requirements:

1. **Setbacks.** No service station shall be located within 250 feet of a single-family dwelling or within 500 feet of another service station.
2. **Storage.** The storage of vehicles, vehicle parts, dismantled vehicles, or equipment and similar articles shall not be permitted within 20 feet of a residential parcel or in any required yard, landscaped, or buffer area, and shall be visually concealed as viewed from a public roadway or abutting residence. Old tires that are offered for sale may be placed outside during normal business hours but shall be stored in a rack. Old tires to be scrapped or sold for junk shall be stored either inside a building or screened from public view through any combination of landscaping, mounding or fencing to effectively screen stored materials. No material or merchandise shall be stored or allowed to accumulate to a height of more than the height of the effective screening.
3. **Vehicle storage.** All motor vehicles on the premises shall carry a current registration or work order with a completion date not to exceed 90 days. Motor vehicles without valid registration and a work order shall be deemed junk, and may not be stored on the premise.

4. **Work conditions.** All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period of 30 days and shall be stored in the rear of the premises or visually concealed as viewed from a public roadway or abutting residence.
5. **Vehicle parking.** No vehicles shall be parked, or left standing within 35 feet of a public road right of way.
6. **Setback for Performances of Services.** All servicing shall be more than 50 feet from any lot line.
7. **Storage of Waste Materials.** Until lawfully disposed of, all discarded parts, fluids, and similar waste shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent residential properties. No such waste materials may be disposed of on the lot.
8. **Lighting.** Exterior lighting proposed for the site shall be planned, erected, and maintained to not cast direct light or glare upon adjacent properties or upon any public right-of-way.
9. **Screening.** An opaque or vegetative screening treatment shall be provided on all sides of the property that are adjacent to residential properties.

Section 84 -32. Auto Dealership.

- A. In any district where permitted as a special use, an auto dealership shall conform to the following standards, which shall be regarded as minimum requirements.
 1. **Frontage.** The lot frontage and width shall be at least 150 feet or the minimum frontage permitted in the district, whichever is greater.
 2. **Parts and Junk Storage.** All automobile parts, including tires and dismantled vehicles, are to be stored within a building or concealed from public view. Old tires that are offered for sale may be placed outside during normal business hours but must be stored on a rack. Old tires to be scrapped or sold for junk must be

stored inside a building or visually concealed as viewed from a public roadway or abutting residence.

3. **Conduct of Outdoor Services.** All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection shall be stored for a period not to exceed 30 days and shall be stored in the rear of the premise, visually concealed as viewed from a public roadway or abutting residence.
4. **Service Area Setbacks.** All service sites shall be so arranged as to restrict all servicing on the premises to not less than 50 feet from any lot line. Insofar as possible, all repair and service work shall be accomplished indoors.
5. **Lighting.** Exterior lighting proposed for the site shall be planned, erected, and maintained in such a manner that it will not cast direct light or glare upon adjacent properties or upon any public right-of-way. No light source shall be higher than 20 feet.
6. **Stock and Storage Setbacks.** The storage of vehicles or equipment shall not be permitted within 20 feet of a residential district boundary or in any required yard, landscaped, or buffer area. All automobile parts, dismantled vehicles, and similar articles shall be stored within a building or visually concealed as viewed from a public roadway or abutting residence.
7. **Merchandise Signage.** Each vehicle for sale is permitted one window sign that shall not exceed the dimensions of the window on which it is displayed. Such signage shall not count against the maximum aggregate area for all other permissible signs on the site. Merchandise signage requirements shall only apply to stock in trade which is stored outdoors and viewed from a public roadway.

Section 84 -33. Bed and Breakfast

A. In any district where allowed as a special use, a Bed and Breakfast shall conform to the following standards, which shall be regarded as minimum requirements.

1. **Establishment as Residence.** The owner of the bed-and-breakfast must reside in and continue to reside in the dwelling as their principal residence. The owner shall

provide upon request a sworn statement certifying to such residency upon request of the Code Enforcement Officer.

2. **Guest Rooms.** The Bed-and-breakfast shall be limited to a maximum of 8 guest rooms.
 3. **Parking.** The applicant shall meet all requirements for the provision of off-street parking at the rate of 1 parking space per room. On-site parking shall be adequately screened from the neighboring properties.
 4. **Telephones.** A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.
 5. **License to Operate.** A business license shall be required with each application and renewal.
 6. **On Premise Businesses.** No other on-site home-based business as defined in this Chapter may be conducted on the premises. Off-site home-based businesses are permitted as of right in any district. Meals may be served to guests only and no meals may be served to the general public. As such, a public dining room or bar is expressly prohibited.
 7. **Fire Safety.** The applicant shall comply with applicable State and local fire and building codes as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.
 8. **Signs.** All signage for the premise shall comply with applicable sign regulations of the zoning district in which said establishment is located.
 9. **Occupancy.** Guest occupancy may not exceed 21 consecutive days.
 10. **Additional Conditions.** The Planning Board shall have the right to impose and include any additional conditions it deems necessary to realize the purpose of this chapter.
- B. In addition to the above criteria, Bed-and-breakfasts located in the R-1 District are additionally required to meet these standards:

1. **Outside Appearance.** A bed and breakfast establishment exterior shall appear as any other single-family residence within the surrounding area.
2. **Parking.** The total number of parking spaces will be determined based on applicable dimensional criteria provided in the Article, Parking. The ratio of 1 guest room per parking space will determine the maximum number of rental units (not including owner/operator parking or rooms) when applied to the available parking figures.
3. **On-site Parking Setbacks.** On-premise parking areas for bed and breakfasts in this the R-1 District shall not be located within 15 feet of any residential property line

Section 84 -34. Car Wash.

- A. A Special Use Permit is required for the establishment of a Car Wash. In addition to all requirements put forth by the Special Use Permit, the operator of said use shall adhere to the following conditions:
1. **Conduct of Services.** All washing and machine-drying operations shall be conducted within a structure.
 2. **Ingress and Egress.** The building exit for automobiles shall be set back sufficiently from the nearest point of any right-of-way line, for purposes of safe ingress and egress.
 3. **Service Area Setbacks.** No washing, vacuuming, steam-cleaning, waxing, polishing, nor machine-drying operation, nor building within which such operations are conducted, shall be permitted within 100 feet of a pre-existing residential building.
 4. **Screening.** All lot lines abutting residentially zoned or used property shall be screened by means of a solid masonry wall, opaque fence, or evergreen hedge of a design acceptable to the Planning Board. Such screen shall not be less than six feet nor more than eight feet in height and shall be maintained in good condition throughout the life of the use.

Section 84 -35. Commercial Extraction.

- A. **Purpose.** The Johnstown Town Board recognizes that sand, gravel and rock resources within the Town are an important and beneficial contribution to the economy of the town and the welfare of its citizens. To provide utilization of these resources in a manner compatible with nearby residential areas and to ensure restoration of commercial extraction areas at the conclusion of operations in such a manner as to conform to the Town Master Plan, this Section is hereby established:
- B. **Special Use Permit Required.** Except when incidental to permitted construction activities on the same lot or associated with an agricultural use, the excavation, processing and sale of topsoil, sand, gravel, clay or other natural mineral deposit or the quarrying of any kind of rock formation for commercial purposes, is subject to a Special Use Permit by the Planning Board.
- C. **Permit Requirements.** Before issuing a permit for such use the Planning Board shall find that such excavation or quarrying will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason or excessive dust, noise, traffic congestion or other condition. The Planning Board may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including the following:
1. The plans showing the slope of material in such top soil, sand, gravel, clay or other pit are to be prepared by a licensed New York State Engineer based on detailed soils analysis.
 2. The top and the base of such slope shall not be nearer than 50 feet to any property line nor nearer than 100 feet to the right-of-way line of any street or highway.
 3. All commercial excavation will require the construction and maintenance of a security fence a minimum of 40 feet from all operations. Also any excavation with 250 feet of a high wall, street or road are to be protected with highway control barriers, a minimum of 40 feet from the excavation.
 4. Restoration and rehabilitation of the commercial excavation area shall be a continuing operation during each year and the area quarried shall be re-graded and drained so as to assure conformance with the public health, safety and welfare.

Approvals by the New York State Department of Environmental Conservation for all phases of the permit are to be provided to the town.

5. A copy of the required performance bond is to be provided for the Town records.
6. All mining shall be in compliance with the New York State Mining Reclamation Act.

Section 84 -36. Concentrated Animal Feed Operation (CAFO).

A. **Special Use Permit Required.** A special use permit shall be required for any animal feeding operation which meets the requirements of this Section.

B. **Definition.** Concentrated Animal Feed Operation or CAFO is an animal feeding operation which meets the following requirements:

1. New and existing operations which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period, more than the numbers of animals specified in any of the following categories:
 - a. 1,000 slaughter or feeder cattle;
 - b. 700 mature dairy cattle (whether milkers or dry cows);
 - c. 2,500 swine weighing over 55 pounds each;
 - d. 500 horses;
 - e. 10,000 sheep or lambs;
 - f. 55,000 turkeys;
 - g. 100,000 laying hens or broilers when the facility has unlimited continuous flow watering systems;
 - h. 30,000 laying hens or broilers when facility has liquid manure handling system;

- i. 5,000 ducks;
 - j. 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds and sheep.
- C. New and existing operations that discharge into navigable waters either through a man-made ditch, flushing system, or other similar man-made device, or directly into surface waters of the State of New York, and which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period, more than the numbers of animals specified in any of the following categories:
1. 300 slaughter or feeder cattle;
 2. 200 mature dairy cattle (whether milkers or dry cows);
 3. 750 swine weighing over 55 pounds;
 4. 150 horses;
 5. 3,000 sheep or lambs;
 6. 16,000 turkeys;
 7. 30,000 laying hens or broilers when the facility has unlimited continuous flow watering systems;
 8. 9,000 laying hens or broilers when facility has liquid manure handling system;
 9. 150 ducks;
 10. 300 animals from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds and sheep.
- D. **CAFO Requirements.** In any zoning district where CAFO's are allowed pursuant to the Schedule of Uses attached, such use shall only be allowed upon review and issuance of a special use permit and site plan approval and shall meet the following requirements:
1. The parcel devoted to a CAFO must have a minimum of 50 acres;
 2. The required buffer between any aspect of a CAFO and the parcel boundary line shall be 300 feet;
 3. CAFO's must comply with the NYSDEC regulations for discharge permits;
 4. A plan for best management of animal waste products must be submitted as part of the special use permit or site plan application.

Section 84 -37. Home Occupation.

A. **Home Occupation, On Site Service.** An on-site home occupation, as defined in this chapter, may be permitted in any zoning district and shall be subject to the conditions of a special use permit. Such use shall conform to the following criteria, which shall be minimum requirements:

1. **Maximum Floor Area.** No more than 15 percent of the total floor area of a dwelling unit or 500 square feet, which ever is less, may be used for such use.
2. **Conduct of Services.** The use shall be conducted wholly within the enclosing walls of the dwelling unit or accessory building.
3. **Signage.** There shall be no external evidence of such use except for 1 sign not exceeding 2 square feet. The area of such signage shall count towards the total aggregate signage area for the premise. Such signs shall not emit any flashing or intermittent illumination.
4. **Residential Appearance.** No external structural alterations, which are not customary to a residential building, shall be allowed.
5. **Onsite Wholesaling and Retailing Prohibited.** Any form of business whose primary function is the wholesale or retail sale of goods or articles from the premises shall not be considered a home occupation.
6. **Traffic.** The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
7. **Additional Conditions.** Such uses shall also be subject to any other conditions the Planning Board deems necessary to meet the intent of these requirements.

B. **Home Occupation, Off Site Service.** Off-site home based business, as defined in this chapter, shall conform to the standards established in subsection A, above, and are not required to obtain a Special Use Permit for this use.

Section 84 -38. Junkyards.

A. **Purpose.** The purpose of this Section shall be to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Johnstown and its inhabitants, by establishing specific requirements and regulations governing the siting and operation of junkyards.

B. **Restrictions.** Junkyards shall be permitted subject to the following restrictions:

1. The establishment of any junkyard shall be restricted to areas within the RA District.
2. Any junkyard shall be located no closer than within 2,500 feet of the parcel boundary of existing junkyard.
3. No junkyard shall be located within 1,000 feet of the property line of a parcel on which is located a public or private school, day care facilities, public libraries, public parks and playgrounds, place of worship, community and youth recreation centers, cemeteries, and federal, state, or local registered historic sites.
4. No junkyard shall be located within 1000 feet of any single-family, two-family, or multiple-family dwelling, and any lawful accessory dwellings.
5. No part of the junkyard shall be visible from a public right-of-way.

Section 84 -39. Mobile Home Parks.

A. **Purpose.** The purpose of this Section shall be to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Johnstown and its inhabitants, by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers and trailer camps.

B. **Permit Required.** No person, partnership, association or corporation being the owner or occupant of any land within the Town of Johnstown shall use or allow the use of such land for a mobile home park or trailer camp unless a permit has been obtained as herein provided.

- C. **Issuance of Permit.** The Code Enforcement Officer of the Town of Johnstown shall issue a permit, to be effective from the day of issuance. This permit shall not be issued by the Town Code Enforcement Officer until the CEO has received:
1. A written application from the applicant.
 2. The required fee as herein provided.
 3. Approval of the application by the New York State Department of Health District Office.
 4. Approval of the Mobile Home Park Plans by the Planning Board.
- D. **Non-Transferable.** A permit issued pursuant to this Section shall not be transferable or assignable.
- E. **Supplemental Permit.** Any person holding a permit for mobile home park or trailer camp and desiring to add additional lots to such park or camp shall file an application for a supplemental permit. The application for such supplemental permit shall be accompanied by 10 complete sets of plans and specifications as required by the Application Data Section, hereafter. The application for a supplemental permit shall be filed and handled according to the procedure established in this section. When approved and upon receipt of the required fee, the Code Enforcement Officer of the Town shall issue a supplemental permit, which shall be effective from the date of issuance.
- F. **Permit Fees.** The annual fee for a Mobile Home Park Permit shall be set by the Town Board.
- G. **Enforcement.** The Code Enforcement Officer of the Town of Johnstown shall enforce all of the provisions of this Section. Such Code Enforcement Officer shall have the right, at all times, to enter and inspect any mobile home park, trailer camp and other premises used for the parking or placement of a mobile home.
- H. **Application Procedure.** An applicant for a permit issued pursuant to this Section shall adhere to the procedures enumerated hereunder.

1. **Referral to County.** An application for a Mobile Home Park or Trailer Camp Permit shall be submitted to the Fulton County Planning Department at least 7 days in advance of a regularly scheduled Planning Board meeting. Each application for a mobile home park or trailer camp shall be made in writing and signed by the applicant. Attached to said application shall be 10 copies of a proposed mobile home park or trailer camp site plan which has been prepared by a licensed engineer or surveyor.
 2. **Review by Planning Board.** The Planning Board shall review the general arrangement of the Mobile Home Park or trailer camp. This shall include a review of: location and width of streets; the location, size and arrangement of lots; the location of other structures within the park or camp; the location of entrances and exits; and the location, type and extent of landscaping and screening materials. If the applicant fails to submit sufficient information to the Planning Board, said application shall be deemed incomplete and returned to the applicant. Once an application is determined to be complete, the Planning Board shall set a date for a public hearing.
 3. **Public Hearing.** The Planning Board shall fix a time within 62 days from the day the Planning Board determines an application for a Mobile Home Park or Trailer Camp Permit to be complete, for a public hearing on the application. A public notice of such hearing shall be published in the Town's official newspaper at thereof. Within 62 days after such public hearing the Planning Board shall approve, approve with modifications or disapprove the application for a Mobile Home Park or Trailer Camp Permit. Failure of the Planning Board to act on such matter within 62 days shall constitute approval of the application.
 4. **Decision.** The written decision of the Planning Board on an application for a Mobile Home Park or Trailer Camp Permit shall be immediately filed in the office of the Town Clerk, the Town Code Enforcement Officer and a copy thereof mailed to the applicant.
- I. **Application Data** The following information shall be provided by the applicant for permits issued pursuant to this Section:
1. The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.

2. The location and description of the land that is proposed to be used as a Mobile Home Park or trailer camp.
3. The number of lots to be provided in such park or camp.
4. Topographic contours at two-foot intervals.
5. Location of watercourses, NYS DEC classified streams, marshes, legal wetlands and areas subject to flooding.
6. Wooded areas.
7. A location map which shows all land within 300 feet of the proposed park or camp and all structures on the land which abuts the proposed park or camp.
8. The location, name and widths of all adjacent streets.
9. The location of all water lines and utilities within and adjacent to the proposed site.
10. The location and widths of all entrances, exits, streets and walkways.
11. The location, size and arrangement of each lot within the park.
12. The method and plan for electric lighting.
13. The location and plan of all proposed structures and improvements.
14. Any proposed grading and plans for landscaping.
15. Any proposed stormwater drainage.
16. Any proposed utilities.
17. Any public improvements proposed by the Town in or adjoining the proposed park.
18. Existing zoning.

19. Any proposed signage

J. **Requirements for Mobile Home Parks.** The following standards and requirements shall be adhered to or secured by permittee:

1. **Site.**

- a. The park shall be located in areas where grades and soil conditions are suitable for use as Mobile Home Sites.
- b. The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and be free at all times from stagnant pools of water.
- c. The park shall be free from heavy or dense growth of brush and woods.
- d. The park shall be at least 2 acres in size and shall have 100 feet of frontage on a public road.

2. **Mobile Home Lot.**

- a. Each Mobile Home Park shall be marked off into mobile home lots.
- b. The total number of Mobile Home Lots in a Mobile Home Park shall not exceed 6 per gross acre.
- c. Each mobile home lot shall have a total area of not less than 5,000 square feet with a minimum dimension of 50 feet.

3. **Mobile Homes.**

- a. No Mobile Home shall be parked or otherwise located nearer than a distance of:
 - i. At least 25 feet from an adjacent Mobile Home in any direction.
 - ii. At least 30 feet from an adjacent property line.
 - iii. At least 100 feet from the right-of-way line of a public street or highway, unless by Special Use Permit.

- iv. At least 10 feet from the nearest edge of any roadway located within the park.

4. Mobile Home Stand.

- a. Each Mobile Home Lot shall have a Mobile Home Stand which will provide for the practical placement on and removal from the lot of both the Mobile Home and its appurtenant structures and the retention of the home on the lot in a stable condition.
- b. The stand shall be of sufficient size to fit the dimensions of the anticipated Mobile Homes and their appurtenant structures or appendages.
- c. The stand shall be constructed of an appropriate nonporous material which is durable and adequate for the support of the maximum anticipated loads. Minimum accepted standard would be a 6" concrete monolithic pad reinforced per American Concrete Institute Standards.
- d. The stand shall be suitably graded to permit proper surface drainage.
- e. All mobile homes to be provided with fill skirting or equal per National Manufacturers Home Standards.

5. Accessibility.

- a. Each Mobile Home Park shall be easily accessible from an existing public highway or street.
- b. Where a Mobile Home Park has more than 16 Mobile Homes, 2 points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed 4. Such entrances and exits shall be designed and strategically located for safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.
 - i. All entrances and exits shall be essentially at right angles to the existing public highway or street.

- ii. All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
 - (a) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with Mobile Homes attached.

- iii. Each park shall have improved streets to provide for the convenient access to all Mobile Home Lots and other important facilities within the park. Streets shall be improved to at least meet minimum Town Highway Department specifications less pavement. Shoulders on both sides shall be widened to not less than 5 feet and adequate drainage facilities shall be provided.
 - (a) The street system shall be so designed as to permit safe and convenient vehicular circulation within the park.
 - (b) Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
 - (c) All streets shall intersect essentially at right angles.
 - (d) All streets shall have the following minimum widths:
 - (e) One-way traffic movement, 12 feet.
 - (f) Two-way traffic movement, 20 feet.
 - (g) Except in cases of emergency, no parking shall be allowed on such streets.

6. Parking.

- a. 1 off-street parking space shall be provided on each mobile home lot. The parking space shall be of similar construction and grading as the mobile streets. Such space shall have a minimum width of 9 feet and a minimum length of 30 feet.

- b. Additional off-street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles.
 - c. There shall be 1 such parking space for each 2 mobile home lots within the park.
 - d. Such parking space shall be provided in bays which shall provide for adequate maneuvering space.
7. **Utilities and service facilities.** The following utilities and service facilities shall be provided in each mobile home park, which shall be in accordance with the regulations and requirements of the Town of Johnstown, the New York State Department of Health and the Sanitary Code of the New York State Department of Environmental Conservation:
- a. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all Mobile Home Lots and buildings within the park to meet the requirements of the park. Each Mobile Home Lot shall be provided with proper water connections.
 - b. Each Mobile Home Lot shall be provided with a sewer, which shall be connected to the Mobile Home situated on the lot, to receive the waste from the shower, tub, flush toilets, lavatory and kitchen sink in each home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects.
 - c. Metal garbage cans with secure and snug covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. The cans shall be located no further than two hundred (200) feet from any mobile home lot. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such cans shall not overflow.
 - d. Service buildings shall be provided as deemed necessary for the normal operation of the park; however, such buildings shall be maintained by the owner or manager of the park in a clean, tidy and sanitary condition.

- e. Each mobile home lot shall be provided with weatherproof electrical service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
8. **Open Space.** Each Mobile Home Park shall provide common open space for use by the occupants of such park. Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least 10 percent of the gross land area of the park.
9. **Landscaping.** Lawn and ground cover shall be provided on those areas not used for the placement of Mobile Homes and other buildings, walkways, roads and parking areas. Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the mobile homes and other facilities.
- a. Screen planting shall be provided to screen objectionable views. Views which shall be screened include laundry facilities, other non-residential uses, garbage storage and collection areas and all abutting yards of adjacent properties.
 - b. Other planting may be required along those areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.
10. **Property Maintenance.** Each stand or lot shall be maintained in an orderly manner. The use of a storage shed not to exceed 144 SF on each stand or lot shall be required for the storage of equipment and other personal property.
11. **Recording.** The owner or operator of each mobile home park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least 1 year from date of occupancy. This record shall include:
- a. The name and address of the occupant of each Mobile Home.
 - b. The name and address of the owner of each Mobile Home which is not occupied by same owner.

K. **Travel Trailers in Mobile Home Parks.** The placement and use of travel trailers shall adhere additionally to the conditions contained hereunder.

1. **Conform with Mobile Home Park Standards.** All travel trailers which are to be placed on the same lot of record with mobile homes shall be arranged into a trailer camp in a manner as defined in this Section. All mobile homes on such land parcel shall be arranged into a mobile home park as defined in this Chapter. Travel trailers shall not be occupied for more than 6 months of the year.
2. **Separate physical location.** When a trailer camp and mobile home park are to be combined on the same legal parcel of land, such trailer camp and mobile home park shall have separate physical locations on the parcel of land.
3. **Mobile home park.** When the parcel of land is divided for mobile home park and trailer camp uses, the provisions contained in Section J, Requirements for Mobile Home Parks, above shall apply to that portion of the land to be used as a mobile home park, except as herein provided.
4. **Trailer camp.** When the parcel of land is divided for mobile home park and trailer camp uses, the provisions contained in Section 84-41 Travel Trailer and RV Parks, shall apply to that portion of the land to be used for a travel trailer park, except as herein provided.
5. **Minimum Parcel Size.** The parcel of land which is to provide for both a mobile home park and trailer camp shall be at least 4 acres in size.
6. **Location on Lot of Record.** Where practicable, that portion of the land to be used as a trailer camp shall be located adjacent to a public highway or street. Where practicable, the trailer camp and the mobile home park shall each have separate points of entry and exit. Where the parcel of land fronts on two (2) or more existing public highway or streets, the trailer camp shall be located adjacent to the public highway or street that is most heavily traveled.
7. **Buffers.** The trailer camp and mobile home park shall be physically separated by a parcel of land at least fifteen (15) feet in width along all areas where the trailer camp abuts the mobile home park. Such parcel of land shall be properly landscaped with appropriate planting materials so that the view of such trailer camp from the mobile home park is adequately screened.

L. Revocation of Permits.

1. **Written Order.** If the Code Enforcement Officer finds and reports to the Town Board that a Mobile Home Park or a trailer camp for which a permit has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Section, the Town Board may, by resolution, authorize the delivery to the holder of the permit of a written order which will require said holder to correct the conditions specified in such order within 10 days after the service of such order.
2. **Revocation of Permit.** If the holder of such permit refuses or fails to correct the condition or conditions specified in such order within 10 days after the personal service of such order, the Town Board may, by resolution, revoke such permit and the holder of the permit shall thereupon terminate the operation of such mobile home park or trailer camp.
3. **Correction of Violations.** However, if the owner or operator of such Mobile Home Park or trailer camp shall thereafter correct such conditions and bring the Mobile Home Park or trailer camp into compliance with this Section, such owner may then apply for the issuance of a new permit for such park or camp, and if the application is approved and a permit is granted, the applicant shall pay to the Town Clerk the fee required by this Section without any credit for the fee paid for the permit which was revoked.

M. Exceptions. No provision of this Section shall apply to the following activities or uses:

1. **Sales.** The business of Mobile Home or Travel Trailer sales, except that where units are used as living quarters, they shall conform to the provisions of this Section.
2. **Storage or Garaging.** The storage or garaging of travel trailers not being used for living or sleeping purposes within a building or structure, or the storage of one (1) unoccupied mobile home or travel trailer on premises occupied as the principal residence by the owner of such mobile home or travel trailer; provided, however, that such unoccupied mobile home or travel trailer shall not be parked or located between the street line and the front building line of such premises.

3. **Field office.** A mobile home or travel trailer located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or tool house in connection with such project, provided that such mobile home or travel trailer is removed from such site within thirty (30) days after the completion of such project.
4. **Modular Homes.** Modular homes as defined in this Chapter. and which has a minimum width of 18 feet for its entire length and contains a minimum of 720 square feet of usable living space.

Section 84 -40. Riding Stables and Academies.

- A. **Permit Required.** No person being the owner or occupant of any land within the Town of Johnstown shall use or allow the use of such land for a riding academy or the stabling of horses, ponies, or both unless a permit has been obtained. Refer to § 84-18 Animal Husbandry for additional requirements. Also see the definition of Animal Husbandry in this Chapter.
- B. **Standards for Riding Stables and Academies.** The following minimum standards shall apply to all riding stables and academies subject to this Section:
 1. **Stabling.** Any animal or animals must be housed in or have access to a garage, barn, stable or shelter conforming to this chapter. They must be properly fenced or on a leash at all times while on the property and when not confined. There must be no offensive fumes, odors or vermin or conditions otherwise detrimental to the public health or safety.
 2. **Setbacks of Stables.** Stables and similar shelters shall conform with setbacks established for Accessory Buildings.
 3. **Interference with drainage** There must be no interference with drainage to the extent of being injurious to streams, adjacent land, or buildings.
 4. **Designated trails.** Designated trails shall not cross a public way, road, street or highway unless by prior approval of the Planning Board.
 5. **Lighting.** If outdoor lighting is provided for riding areas, the applicable setbacks shall be doubled for such facilities. All lighting shall be so located as not to be visible at the source from any adjoining property.

6. **Pre-existing Structures.** The use of existing barns and structures is to be encouraged. Such existing buildings will be exempt from applicable setback requirements.
 7. **Animal Waste.** Refer to *Appendix A – Use Table* for the Zoning Districts where manure is allowed to be stored. Provisions shall be made for removal or handling of manure in such a manner that does not pollute ground or surface water or create a public nuisance. Storage of manure shall not be closer than 100 feet from any property line and shall also be completely screened from adjoining property and public roads.
 8. **Foals over 6 months.** The applicant shall be permitted to regularly maintain no more than 10 horses over six months old on the premises for the first 10 acres of contiguous property owned by the applicant. The keeping of an additional one horse over six months old shall be permitted for each additional ½ acre of contiguous property in excess of 10 acres owned by the applicant.
 9. **Impacts on water supplies.** In reviewing any application for a stable or riding academy, the Planning Board shall consider the drainage, percolation and topography of the proposed site and its proximity to public or private water supplies.
- C. **Special Use Permit Considerations.** In granting any special use permit pursuant to this Chapter for a riding stable or academies, the Planning Board shall consider the frequency of events, hours during which events may be permitted, the maximum number of people that may be expected to attend such events, provisions for crowd and traffic control and intrusiveness of noise upon neighboring residences, including the nature of and decibel level of sound amplifications systems.

Section 84 -41. Special Events

- A. **Events.** All public events shall require Town Board Approval when one or more of the following apply:
1. When 1,000 or more people are expected to attend;
 2. When any public road way is to be used as part of the event;

3. When the event is conducted on any lake.

- B. **Application and Review.** Prior to the event, a completed Event Application shall be submitted to the Town Board requesting approval. The Town Board may forward the application to the Planning Board for guidance. A decision on the application shall be made within 62 days of receipt of the application.
- C. **Standards.** The event shall provide adequate sanitations facilities, sufficient parking and crowd control measures as determined by the Planning Board.
- D. **Issuance of Permit.** Upon approval of the Town Board, the Code Enforcement Officer has the authority to issue the Event Permit.
- E. **Disapproval of Permit.** Upon disapproval of the Event Permit, the Town Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny the Event Permit to the applicant. The Town Board shall also notify the applicant in writing within 5 business days of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

Section 84 -42. Small Wind Energy Systems

- A. **Purpose.** The requirements of this Article are established for the purpose of allowing the residents and businesses of the Town to use small wind energy systems to harness wind energy for individual properties in order to reduce consumption of off-site energy while protecting the public health, safety, and general welfare. Small wind energy systems shall be subject to a Special Use Permit, as established in this Chapter and Section.
- B. **Definitions.** The following terms whenever used in this Section shall have the meanings as set forth below. Any such terms used in the singular shall be held to include the plural. Any such terms or any other terms not defined in this section used in the masculine shall be held to include the feminine. In this Section, any references to a governmental agency, official, or entity, shall also include any subsequent name designation, successors in interest or in jurisdiction
 - 1. FAA shall mean the Federal Aviation Administration of the United States Department of Transportation.

2. Guy Cable shall mean any cable or wire that extends from a small wind energy system for the purpose of supporting the system structure.
3. Small Wind Energy System shall mean a wind energy conversion system consisting of one or more single wind turbines, one or more towers, and associated control or conversion electronics that generates power for an individual property for the purpose of reducing on-site energy consumption. A system designed to produce in excess of 100 kilowatts of capacity shall not be considered a small wind energy system.
4. System shall mean a small wind energy system.
5. System Height shall mean the height above grade of the highest point of the arc of the blades.
6. Tower shall mean the upright portion of a small wind energy system to which the primary generator devices are attached.

C. Application for Special Use Permit.

1. An approved special use permit for a small wind energy system shall be required prior to submitting an application for a building permit of said system when one or more of the following is true:
 - a. The system height is greater than the maximum height of building limitations described in Appendix B for each zoning district;
 - b. The parcel on which the system is to be located is smaller than 4 acres;
 - c. The parcel on which the system is to be located does not contain an existing lawful residence, institution, or business;
 - d. The system is to be mounted on an existing or proposed building.
2. An approved special use permit shall identify and fix the location of the proposed system.

3. All parts of the structure of a small wind energy system, including the tower, base, footings, and turbine but excluding guy cables and their anchors, shall be set back a distance of not less than 110 percent of the system height from all adjacent property lines and a distance of not less than 150 percent of the system height from any inhabited structure, road right-of-way, railroad right-of-way, and right-of-way for overhead electrical transmission or distribution lines. Guy cables and their anchors shall meet the setback requirements as established in this Chapter for accessory structures in the zoning district in which the system is proposed to be located.

D. **Review Considerations.** In addition to the requirements enumerated in Subpart E, the Planning Board shall consider the following in assessing adverse impacts to the public health, safety, and welfare:

1. The height of the system relative to the size of the parcel on which the system is proposed to be located;
2. The need for the proposed height of the system in order to allow the system to operate effectively;
3. The visual impacts of the system on adjacent properties and the general area in which the system is proposed to be located;
4. The building density of the general area in which the system is proposed to be located;
5. Whether a substantial adverse effect on public safety will result from the height of the system or some other aspect of the system's design or proposed construction;
6. The existing uses on adjacent and nearby properties.

E. **Application for Building Permit.** A building permit application shall only be considered after approval of a site plan for the small wind energy system. The building permit application for said use shall be accompanied by information, designs, and measures that conform with the following provisions:

1. **Purpose.** A small wind energy system shall only be used to reduce consumption of off-site energy and shall be used primarily to power onsite facilities and uses.

Unused surplus electricity generated through a small wind energy system may be lawfully supplied, with or without compensation, to an offsite electric grid.

2. **Noise.** The small wind energy system shall not exceed a noise level of 60 decibels as measured at the closest property line and under typical operating conditions. The noise level may be exceeded during short-term events such as utility outages and/or severe wind storms.
3. **Building Code Compliance.** Building permit applications shall be accompanied by standard drawings of the system structure, including the tower, base, footings, and guy cables. An engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer also shall be submitted. This analysis may be supplied by the manufacturer.
4. **Electric Code Compliance.** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components of the system showing compliance with the National Electric Code and certified by a licensed professional engineer. This information may be supplied by the manufacturer.
5. **Notifications regarding Aircraft.** Small wind energy systems shall comply with all applicable regulations of the FAA, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining the applicable FAA regulations and securing all necessary reviews and approvals.
6. **Local Utility Company Notification.** If a small wind energy system is to be connected to an off-site utility service provider, the applicant shall notify the electric utility service provider of the applicant's intent to install an interconnected customer-owned electricity generator no later than 5 business days prior to submitting a building permit application. Copies of letters must be included in the building permit application.
7. **Minimum Distances.** The distance between any protruding blades utilized on a small wind energy system and the ground shall be a minimum of 15 feet as measured at the lowest point of the arc of the blades. The distance between the lowest point of the arc of the blades and the peak of any structure within 150 feet of the blade arc shall be a minimum of 10 feet.

8. **Radio and Television Signals.** The small wind energy system shall not cause any electro-magnetic interference with communications signals, such as radio, television, microwave, or navigation signals. If a signal disturbance problem is identified, the applicant shall correct the problem within 60 days of being notified of the problem.
9. **Appearance.** The small wind energy system shall maintain a galvanized neutral finish or be painted to conform the system color to the surrounding environment to minimize adverse visual effects. No small wind energy system shall have any signage, writing, pictures, or decorations placed on it at any time other than warning, equipment, and ownership information. No small wind energy system shall have any flags, streamers, banners, and other decorative items that extend from any part of the system placed on it at any time.
10. **Repair.** A small wind energy system that is not functional shall be repaired by the owner or removed. In the event that the Town becomes aware of any system that is not operated for a continuous period of 3 months, the Town will notify the landowner by registered mail and provide 30 days for a written response. The written response shall include reasons for the operational difficulty, the corrective actions to be performed, and a reasonable timetable for completing the corrective actions. If the Town deems the proposed corrective actions, the timetable for completing corrective actions, or both as infeasible or unreasonable, the Town shall notify the landowner and such landowner shall remove the turbine within 120 days of receiving said notice.
11. **Removal Upon End of Useful Life.** When a system reaches the end of its useful life and can no longer function as originally designed, the owner of the system shall remove the system within 120 days of the day on which the system last functioned. The owner shall be responsible for the removal of the system and all costs, financial or otherwise, of system removal.
12. **Fencing.** The tower shall be enclosed with a fence of at least 8 feet in height or the base of the tower shall not be climbable for a distance of 12 feet measured from the base of the tower.
13. **Height.** The applicant shall provide evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

14. **Required Safety Features.** The small wind energy system shall have an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the system is designed and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.

F. **Construction and Operation.** Any building permit issued pursuant to this Article shall allow the owner or operator to operate the System in a manner that does not exceed the provisions established pursuant to this Article and any conditions enumerated in an approved site plan.

G. **Application and Fees.** All applications and fees for administration and enforcement of this Article shall be established by the Town.

Section 84 -43. Sawmills

A. **Minimum Standards.** In any district where permitted, sawmills shall conform to the following standards, which shall be regarded as minimum requirements:

1. **Views.** Any structures or outside storage areas shall be adequately screened from view of abutting properties.
2. **Noise.** The facility shall not emit noise in excess of 60 decibels (comparable to the decibel level of normal conversation at 3-5 feet) at any adjoining property line. Operations shall seek all possible techniques to minimize noise impacts, including, but not limited to locating machinery within an enclosed structure. The applicant may be required to demonstrate that the facility is not exceeding the maximum allowed decibel level. The Planning Board shall consider the potential impact on surrounding properties from the duration, pitch and frequency of use of the facility in reviewing an application for the Special Use Permit.
3. **Hours of Operation.** The Planning Board shall condition the hours and days of operations taking into consideration the facilities location and surrounding uses.
4. **Deliveries.** Deliveries and shipments shall be kept to a minimum and should not exceed 4 deliveries and shipments per day. Impacts on local roads and residential areas shall be avoided or mitigated to maximum extent practicable.

5. **Dust and Air Pollution.** Dust shall be controlled in an appropriate manner and shall not be permitted to cross the property line. Adverse air impacts shall be avoided or mitigated to the maximum extent practicable.
6. **Setbacks.** The sawmill operation shall be located no less than 1,000 feet from any abutting residential structure not owned by the sawmill operator or landowner and in existence at the time the sawmill operation was established.
7. **Application Notification.** All property owners of property located within 1,000 of the property upon which a sawmill operation is proposed shall be notified of such application prior to a public hearing before the Planning Board.
8. **Lot Size.** Sawmill operations shall not be located on a parcel less than 15 acres without an area variance.

Section 84 -44. Travel Trailer and RV Parks.

- A. **Minimum Standards.** Travel trailer or recreational vehicle park shall require a special use permit. The following development and maintenance standards shall be considered minimum
 1. **Driveways.** All travel trailer or RV parks shall have interior driveways service each travel trailer or recreational vehicle space, such driveways being not less than 24 feet in width
 2. **Minimum space.** Each travel trailer or recreational vehicle space in such park shall contain a minimum of 1,800 square feet of area, and shall be at least 45 feet in width, and shall front upon a driveway.
 3. **Separation distances.** Travel trailers or RVs shall be placed on a designated space in such a manner that there will be not less than 15 feet of separation between travel trailers or RVs on adjacent spaces.
 4. **Connections and Facilities.** Each travel trailer or RV park shall provide, at a minimum, the following:

- a. An electrical outlet capable of supplying 4,000 watts at 110 – 220 volts at each travel trailer or RV space.
 - b. Hookup apparatus for connection to sewerage or disposal system within the Park;
 - c. Faucet or bibcock connected to a water supply system within the Park; and
 - d. At a minimum, a public restroom containing a toilet, sink and shower shall be provided at each Park.
5. **Service Buildings.** Service buildings that house sanitation and/or laundry facilities or any other such facilities shall be permanent structures constructed in accordance with all applicable codes and law of the Town of Johnstown.
6. **Lighting.** Each travel trailer or RV park shall be provided with a means of security lighting. All toilet and shower buildings and facilities shall be provided with sufficient lighting facilities, which shall be kept lighted during the time one-half hour after sunset and one-half hour before sunrise. All lights on the premise shall be fully shielded fixtures and no light shall be visible from the source by abutting parcels.
7. **Management.**
- a. The name of the person with direct management responsibility of the travel trailer or RV park shall be filed for reference with the Town Code Enforcement Officer, who shall be notified within 10 days of any changes of said person. It shall be the responsibility of the owner and operator of the premise to take such measures as may be deemed to be necessary by the Town CEO to protect and promote the health, safety, and welfare of patrons and the general public.
 - b. Not more than 1 travel trailer or RV shall occupy a space within such park.
 - c. No permanent addition or structure shall be built onto or become part of any travel trailer or RV located within the park.

- d. The maximum duration of stay by any travel trailer, RV, or individual shall be 6 months. This shall not apply to a permanent on-premise residence for management and the owner of record for the parcel.
- e. All facilities, connections, and travel surfaces shall be maintained in good operating condition.

Section 84 -45. Travel Trailer Outside Parks.

- A. **Travel Trailers.** Travel trailers are not permitted to be occupied for more than 6 months in 1 year when located outside of a mobile home park or trailer camp.

ARTICLE 9 PLANNED UNIT DEVELOPMENT

Section 84 -46. Purpose, Effect, Authorized Uses, Applicability.

A. **Purposes.** The regulations for Planned Unit Development Districts (“PUD”) as set forth below are intended to provide a recognized and innovative zoning and planning technique for potential new development of [relatively large] areas within the Town of Johnstown that are specifically chosen by property owners or developers for well-designed projects that incorporate a mixture of compatible uses, open space, economies of scale, environmental and community sensitivity, and creative architectural or planning concepts that are in accordance with the Town’s economic and land use policies and goals. It is the intent of the PUD to provide for flexibility of use, area and site development restrictions in order to encourage responsible and high-quality developments that will be a lasting asset to the Town and the community in which they are situated. Each application for a PUD will be reviewed in detail and approved on a case-by-case basis to ensure that the purposes and intent of these regulations are met. In this regard, the following objectives shall be sought with each application:

1. Creation of a more desirable community environment than what would be possible via a strict application of zoning regulations set forth elsewhere in the Town’s zoning regulations.
2. Encourage the permanent preservation of open space for active and passive recreational use, including the provision of neighborhood parks and trails.
3. Preservation and enhancement of community natural resources such as water bodies, wetlands, forest, significant topographic and geologic features and other areas of scenic and ecological value.
4. Efficient use of a site to facilitate adequate and economical construction and maintenance of street and drainage facilities, water supply and sewerage systems.
5. Encourage a less sprawling and more efficient forms of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.
6. Minimize the total amount of disturbance on the site.

7. Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure and housing costs.

8. To further the policies and goals set forth in the Town of Johnstown Master Plan.

B. Effect of PUD Approval. The decision to approve a PUD is a legislative decision that amends the Zoning Map so that no PUD applicant is entitled to a proposed PUD project unless and until the Town Board approves it. The approval of a PUD will create a new zoning district on the parcel or parcels of property for which it is proposed that will be governed by the terms, restrictions and conditions of the Town Board's approval for that particular PUD district.

C. Authorized Uses within PUD. No use shall be established and no development shall be permitted in the PUD district unless specifically approved pursuant to the procedures and standards set forth in this Article. The specific uses to be allowed in the PUD shall be approved by the Town Board. No use shall be approved as an allowable use within a PUD if it is found by the Town Board to be contrary to the health, safety or general welfare of the residents of the Town. The general categories of allowable uses that can be incorporated in any PUD are as follows:

1. Commercial – including but not limited to lodging, sale of retail products and services (excluding wholesale)
2. Office – including professional and business (excluding medical clinics exceeding 5,000 square feet of floor area.)
3. Single-Family Dwellings – including townhouses/condominiums
4. Multi-Family Dwellings – including apartments and condominiums
5. Recreational – including outdoor and indoor facilities
6. Mixed Uses and mixed-use buildings- any combination of the above mentioned uses

D. Applicability.

1. **Districts.** A PUD may be considered for approval in any zoning district established in the Town.
2. **Minimum Area.** A PUD shall comprise at least 10 contiguous acres of land, unless otherwise established in this Chapter. The Town Board shall consider a PUD proposed on less than 10 contiguous acres on a case-by-case basis. No application for a PUD shall be accepted or approved unless all of the property included in the application is under unified ownership or control by the applicant.

Section 84 -47. General Requirements and Design Standards.

A. **Development Density.** The allowable density shall be based upon buildable land within the proposed PUD. The density of a proposed PUD development shall be set forth initially by the applicant as part of the PUD plan and application process and determined in the final instance by the Town Board as part of the approval process. Generally, density of structures, infrastructure such as roads and parking lots, and other developed areas shall be appropriate for the site and the neighborhood in which the site is situated taking into account availability, capacity and suitability of services, such as schools, emergency response, and public roads, community sewer and water systems, and ability to mitigate or contain environmental impacts. Land that meets the following criteria will not be included in the calculation of buildable land:

1. Freshwater wetlands as regulated pursuant New York State Department of Environmental Conservation regulations;
2. Waters of the United States, including wetlands under the jurisdiction of the U.S. Army Corps of Engineers;
3. Streams that are classified or classifiable by the New York State Department of Environmental Conservation;
4. Critical environmental areas as designated by the New York State Department of Environmental Conservation;
5. Slopes in excess of 15 percent;

6. Other areas of environmental or scenic significance as may be identified by the Planning Board, Town Board, or the Town of Johnstown Master Plan;

B. Increase in Density. A proposed PUD that meets unique criteria may be granted an increase in density. Examples of unique criteria shall be as follows:

1. The inclusion of Town-wide public recreational facilities, other community facilities, or some combination thereof.
2. The provision of open space above and beyond the requirements outlined in this article or other PUD districts established by the Town, especially if the open space is creatively connected with existing open space for purposes such as recreational trails, habitat corridors, and scenic viewsheds, and other similar benefits of public importance.
3. Additional Community Benefits. Applicants seeking further density bonuses have the option of proposing additional community benefits not already listed above.

C. Ratio of Mixed Uses. The proposed PUD shall have a mixture of uses that is appropriate and sustainable for its location, Town needs and market considerations. The actual ratio of mixed uses shall be specified by the applicant as part of the PUD application and approved by the Town Board as part of the approval process.

D. Preservation of Natural Features.

1. Significant natural features of a proposed site for a PUD shall be preserved whenever possible for purposes of:
 - a. Enhancing the quality of development
 - b. Providing adequate screening and buffering between new development and surrounding properties
 - c. Preserving the character of existing neighborhoods or improving such character
 - d. Protecting important environmental resources

- e. Providing for natural channels and water quality filters for storm water such as vegetation along stream corridors, wetlands, and permeable surfaces.
- E. **Preservation of Historic Resources.** Whenever a proposed site for a PUD has existing historic buildings, structures or sites of significance located thereon, such resources shall be preserved and incorporated in the design wherever possible.
- F. **Integrated Architectural Design.** If a mixture of uses is proposed, the PUD and the plan for its development should integrate the architectural design for buildings, structures, landscaping, infrastructure facilities and common areas so that the development has a visually cohesive design appropriate to the uses proposed and for the area of the Town where the PUD is proposed.
- G. **Pedestrian System.** Provision shall be made for a pleasing and accessible pedestrian system within the proposed site and access from without.
- H. **Streets.** The PUD and the plan for its development shall provide an appropriately designed traffic system that allows for ease of access to and circulation within the PUD. Such system shall take into account current traffic flows and volume as well as that which may be generated by the PUD. Access points shall be designed to provide smooth flow, controlled turning movements and minimum hazard to vehicular and pedestrian traffic.
- I. **Off-street Parking and Loading.** The proposed development shall comply with the off-street parking and loading standards set forth in this Chapter, unless it is shown that a deviation from those standards is warranted and is specifically approved during the PUD approval process. Generally, adequate parking and loading facilities must be provided for on-site with minimum disruption to traffic circulation and with no increase to off-site parking.
- J. **Utilities.** Underground on-site utilities are required including telephone, electric, cable, water distribution laterals and sewer collection laterals.
- K. **Lighting.** All lighting shall be arranged so as to prevent direct glare or hazardous interference from the lighting for the proposed development to adjoining streets or properties.

L. Common Areas, Open Space, Recreation Areas. Depending on the size of the proposed PUD, the number of residential units, the square footage of commercial space proposed, or any combination thereof, provisions shall be made for common areas, open space and recreational amenities for residents and guests of the PUD. Pedestrian walkways, recreational buildings and facilities, natural open space areas, sitting or observation areas, natural habitats, parks and playgrounds are considered suitable amenities depending on the density and mixture of uses of the proposed development. Integration of various amenities throughout the development plan is encouraged.

1. Not less than 30 percent of the gross area of the proposed PUD project site shall be devoted to common open space, unless otherwise prescribed by this Chapter. For lands allocated to open space uses, not less than 50 percent of open space shall be devoted to common or public open space. (I.E., a 100 acre PUD project shall allocate not less than 30 acres for open space uses. Of the land allocated to open space uses, at least 15 acres (50% of 30 acres) shall be set aside for common or public usage.) Open space shall be integrated through design and construction with the developed portions of the site. The design of open space shall consider neighborhood character and abutting properties and uses.
2. Public Recreation areas and facilities shall be incorporated where appropriate.
3. Ownership and Maintenance. All common areas and amenities shall be owned and operated by an appropriate legal entity that will exist in perpetuity. The conveyance of individual parcels within a PUD may be acceptable provided provision is made for continuity of restrictions and controls in the form of deed covenants, restrictions and easements. The post-development ownership and maintenance plan shall be part of the application and approval process. Said post-development plan shall include a mechanism that will provide unified control and authority over the operations of the development so that there is one entity or individual that is responsible for enforcing the terms and conditions of the PUD approval for all tenants, homeowners, business owners and other users of the PUD.

M. Development Phasing. The development of a PUD may be proposed and approved in phases. A phasing plan shall be submitted as part of the PUD application materials if development phasing is contemplated by the applicant. The Town Board shall have

the authority to approve, with or without modifications and/or conditions, or deny the phasing plan based on the following standards:

1. Each phase must be related to surrounding areas and available public facilities in a manner such that failure to proceed to subsequent phases will not adversely affect those areas or facilities.
2. Each phase when completed must be able to fully function on its own or in conjunction with prior phases without dependence on subsequent phases and each phase shall be fully completed prior to the final approval of subsequent phases.
3. The infrastructure, as installed, shall be sufficient to accommodate each planned phase of development.
4. Each phase shall have an appropriate ratio of the various uses proposed for the development.

N. **Construction Schedule.** The applicant shall propose and the Planning Board shall review and approve a construction schedule for the development of an approved PUD. Generally, commencement of development of the PUD, or the first phase if a phased PUD is approved, must occur within three (3) years of the date that the final site plan of the PUD is approved. However, it is recognized that depending on the scale and complexity of the development, consideration may be made with respect to the reasonable time necessary for the applicant to obtain construction financing, insurance and bonds, executing construction contracts, and other such aspects involved in a development project. Thus, the Town Board may modify the time-period allowed for commencement of construction depending on the circumstances of each PUD.

Section 84 -48. PUD Application Procedures.

A. **Sketch Plan.** An application for a PUD approval starts with submission of and review of a sketch plan by the Town Board pursuant to the requirements and procedures set forth below. If the Town Board determines that the proposal merits no further review because it fails to meet the objectives of this Chapter, no further action on the application shall be taken.

1. The following information shall be submitted for convening a sketch plan conference. A sketch plan drawn to approximate scale and depicting at least the following:
 - a. parcel or parcels to be included in PUD;
 - b. the location of the various uses and their areas;
 - c. approximate location of significant natural and man-made features of land, such as wetlands, streets, easements, buildings, etc;
 - d. proposed layout of structures, roads and other features;
 - e. current owners of parcel(s) to be included in PUD
 - f. Written narrative describing the proposal and its merits. The narrative shall be sufficiently detailed to provide a well-developed concept and scope of the proposal, and must include, at a minimum, the following:
 - i. Total number of acres proposed for the PUD;
 - ii. Type of uses proposed and ratio of mixed uses;
 - iii. Number of residential and commercial units;
 - iv. Preliminary density calculations (dwelling units per acre/square footage of commercial space per acre);
 - v. An explanation of how the applicant's particular mix of land uses meets existing community needs and goals;
 - vi. A summary of the operation and ownership arrangements during development and post-development phases;
 - vii. A summary of the infrastructure needed and/or available with respect to transportation, roads, water, and sewer;

- viii. A general description of the provisions of other community facilities, such as schools, fire protection services and cultural facilities, if any, and an indication of how these needs are proposed to be accommodated;
 - ix. Recreational facilities and/or amenities that will be included in the PUD plan;
 - x. General description of type of architectural and planning design standards to be proposed as part of PUD plan;
 - xi. General description of existing land uses on parcels adjacent to proposed PUD site.
- g. Sketch plan fee set by the Town and which is nonrefundable.
 - h. The above requirements are the minimum requirements necessary in order for the Town Board to schedule a conference. The applicant may provide more detail than that indicated above.
 - i. The Town Board may require the applicant to meet with any Town staff and/or consultants that the Board deems appropriate in order to facilitate the submission of a complete and suitable application.

2. Sketch plan conference.

- a. In this initial stage of review the applicant must meet with the Town Board in order to discuss the proposed project and to allow the Town Board and the developer to reach an understanding on basic requirements prior to detailed design investment. The Town Board shall schedule a conference with the applicant within 31 days of the submissions as set forth above.
- b. The applicant shall attend the sketch plan conference and make a presentation to the Town Board describing the PUD proposal. The intent of this conference is to provide the Town Board with sufficient information and description of the proposal in order for the Board to preliminarily decide whether the proposal has merit for a PUD and whether to allow the applicant to proceed to the next stage of review.

3. **Sketch Plan Decision.** The Town Board shall, within 62 days from the date of the conference, make a preliminary determination as to whether the applicant may move on to next stage of the application process and submit a PUD application pursuant this Chapter. The Town Board may provide the applicant comments and direction in whatever detail it deems appropriate regarding the content, design, allowed uses, ration of mixed uses, project size and scope that the Board will find appropriate for the formal application stage. Although said preliminary determination will not commit the Town Board to any specific course of action on the PUD to be requested, the sketch plan process is intended to advise the applicant as to what may be generally acceptable and not acceptable to the Board so that the applicant has a general understanding of what is expected in the next stage of review. Generally, said preliminary determination may include the following:
 - a. An identification of issues or PUD features that must be addressed in the PUD design and application materials such as specific infrastructure, design and environmental issues;
 - b. A general assessment of what uses and ratio of mixed uses that would be acceptable in the location proposed;
 - c. An identification of the types of supporting documentation and studies that will be required for submission and their general breadth and scope;
 - d. An identification of involved agencies and the approval jurisdiction that each may have with respect to aspects of the proposal;
 - e. A preliminary assessment of issues regarding compatibility or potential incompatibility with surrounding existing land uses and/or neighborhoods and proposed uses;
 - f. The time in which the preliminary determination must be made may be extended upon consent from the applicant.
4. **Effect of Decision.** If it is determined by the Town Board that the sketch plan proposal does not have merit for further review as a PUD, the applicant may submit a new proposal for another sketch plan conference but may not submit a formal PUD application. If it is determined by the Town Board that the sketch

plan proposal does have merit for further review, the applicant may proceed by submitting a formal PUD application that meets the submission requirements set forth below and is consistent with the preliminary determination of the Town Board pursuant to the sketch plan conference.

Section 84 -49. PUD Application.

- A. **Required submissions for a PUD application.** The following is intended to set forth a comprehensive list of required submissions for a PUD proposal of significant complexity, size and scope. The Town Board shall have the authority to waive certain requirements that it deems unnecessary or inappropriate given the size, scope and complexity (or lack thereof) of the PUD actually proposed. It is intended that the required submissions be tailored to the actual proposal so that unintended and/or unnecessary costs in preparing submission materials are eliminated in the application process to the extent practicable. The submission materials, however, are to be complete and comprehensive with respect to the particular PUD project proposed, so that the Town Board and Planning Board have the opportunity to make their respective decision(s) on an appropriate record of information. One original and 10 copies of all application materials must be submitted.
- B. **PUD Preliminary Site Plan.** A schematic site plan, of one or more sheets, drawn to scale of not less than 1 inch to 100 feet which shall show at a minimum the following information:
1. Boundaries and total acreage of proposed area to be considered for the PUD;
 2. Location of environmental features of land comprising the proposed PUD including but not limited to wetland areas, ponds, streams and drainage ways, tree stands and hedgerows, topography (of contour intervals of not less than 10 feet), and any other existing natural features with identification of what is to be preserved and/or removed;
 3. Location and description of all existing man-made features on the site proposed for the PUD and on all properties adjacent to the proposed PUD such as land uses, structures, driveways or streets, wells, sidewalks, easements and common areas with identification of what is to be maintained, altered and/or removed;

4. Layout of proposed development including the location, areas and dimensions of proposed uses, structures, access and internal roads, parking areas and spaces, water and sewer system facilities and laterals, and all other site development features;
5. Location, area and features of each development phase if the development is proposed to be constructed in phases;
6. Drawings/Guidelines: Proposed architectural drawings and guidelines applicable for all structures proposed within the PUD including a general narrative description of the type of architecture proposed and how it compares to the existing architectural features of nearby areas and proposed signage and/or signage regulations;
7. Landscape Plan: a general but complete plan of the significant landscape features including buffer areas, screening and aesthetic features;
8. Storm water drainage plan with supporting engineering documentation regarding the sufficiency of existing receiving channels or areas and/or mitigation measures;
9. Traffic studies and plans;
10. Lighting Plan;
11. Utility plan and report establishing either that existing capacity exists for the PUD or the required improvements proposed;
12. A written description, images, and visuals that include the following:
 - a. request for PUD with signatures of all parties having an interest in the subject property or properties;
 - b. existing ownership of land proposed to be included in the PUD;
 - c. proposed ownership of post-development PUD including description of organization(s) to be utilized to own, maintain and manage common areas, commercial space, residential units, and infrastructure improvements and

- whether certain structures or parcels within the PUD will be offered for sale or conveyance to third parties;
- d. the proposed mixture of uses;
 - e. density calculations and explanation of proposed density bonuses, if any;
 - f. phasing plan, if any, including timing of phases proposed offers of dedication of land, improvements and/or easements;
 - g. post-development deed covenants, conditions and/or restrictions applicable to individual properties within the PUD or to the entire PUD;
 - h. schedule of general improvements to constitute a part of the development, including without limitation, signage, lighting, utilities, and features designed to address noise, visual screening, drainage, etc., if not already addressed in other submission materials;
 - i. an assessment of whether the proposed uses within the PUD are compatible with surrounding properties and uses (providing support for such conclusion) or, if not compatible, what measures or design features are included in the design of the PUD to enhance compatibility or mitigate incompatibility;
 - j. an assessment of whether the proposed PUD is consistent or compatible with the overall character of the surrounding area and Town and, if not consistent or compatible, the reasons why or what measures are included in the PUD proposal to enhance compatibility or mitigate incompatibility;
 - k. proposed local law that amends Town zoning map;
 - l. Full EAF or draft Environmental Impact Statement;
 - m. Application fee. A nonrefundable fee established by the Town Board plus a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs including fees of consultant(s) to be retained by the Town Board in order to assist the Town Board and Planning Board in reviewing the PUD application. Consultant fees shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of

services to be provided by such consultant(s). The Town Board shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the PUD proposal. The consultant retained shall provide the Town Board with detailed invoices showing the services rendered for the time-period billed and the Board shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues.

Section 84 -50. Review Procedures.

A. Review Procedures

1. **First Meeting.** The Town Board shall review the application materials submitted and make a determination as to whether the application is complete for commencement of the PUD review process. In order for an applicant to be on the agenda of a special or regular Town Board meeting, all application materials must be submitted at least 10 days prior to the next scheduled meeting.

2. **Determination of Completeness.** The Town Board shall have 62 days from the first meeting at which the PUD application is on the agenda in which to determine whether the submitted materials and documents constitute a complete application. The Town Board shall forward the application submissions to the Planning Board for its review and recommendation on the completeness and adequacy of the application submissions. If the Town Board determines that the application is incomplete, it shall advise the applicant in writing as to what documents or materials are missing or what the deficiencies in the submitted materials or documents are. Upon resubmission of the application or missing materials, the Board shall have the same time-period as set forth above in which to determine completeness of the application materials.

3. **Upon Completion.** If the Board determines that the application is complete, it shall:
 - a. refer a complete copy of the application materials to the Planning Board for its recommendation and the Planning Board shall have 62 days of its receipt of the application materials in which to make a recommendation to the Town Board with respect to the proposal,

- b. refer a complete copy to the County Planning Department, if applicable, and any other agency that has approval jurisdiction over any aspect of the proposal,
- c. if not already performed, identify or retain a consultant or consultants in which to assist the Board in reviewing the application and advise the applicant as to the estimated cost of consultant fees, the fee schedule and scope of services of the consultants selected and the amount of deposit to be submitted for payment of such consultant fees.

4. **State Environmental Quality Review Act (SEQRA) Process.**

- a. **Lead Agency.** The selection of a Lead Agency shall be carried out in accordance with SEQRA. Notice shall be sent to all other involved agencies so that the SEQRA review is coordinated. Said notice shall state the Town's lead agency preference and that the lead agency must be agreed upon within 30 days of the date that the notice together with the Environmental Assessment Form (EAF) was transmitted to them.
- b. **Determination of Significance.** When sufficient information has been provided by the Applicant, the lead agency (if the Town Board or Planning Board) must determine the significance of the proposed PUD. If the determination is that the proposal does not have the potential for one or more significant environmental impacts, the lead agency shall issue a negative declaration which concludes the SEQRA process. If the determination is that the proposal may result in one or more potential environmental impacts, the lead agency shall issue a positive declaration and require a Draft Environmental Impact Statement (DEIS) before further PUD procedures are continued.
- c. **Suspension of Procedural Time-Frames.** If a positive declaration is issued, the PUD procedural time-frames specified herein shall be suspended until a DEIS is submitted by the applicant and accepted as complete by the lead agency. Thereafter, the public hearing and comment period on the DEIS and PUD application may be coordinated and run concurrently. However, no decision on the PUD application shall be made by any Board or agency (including but not limited to the Planning Board recommendation) until the environmental impact statement process has been completed and a SEQRA

statement of findings has been issued by the lead agency pursuant to the SEQRA regulations (6 NYCRR Part 617).

5. **Planning Board Recommendation.** The date of Planning Board receipt of the application shall be the next regular meeting of the Planning Board. The applicant shall attend such meeting in order to explain the proposal and answer any questions the Planning Board may have. The Planning Board shall review the proposal and provide the Town Board with its recommendation as to whether or not the proposal should be approved as a PUD and any issues or concerns the Planning Board has on any aspect of the proposed PUD. The Planning Board shall forward its recommendation to the Town Board within 62 days of its receipt of the application referral. The Town Board shall consider the Planning Board recommendation but need not follow it.

6. **Public Hearing.** The Town Board shall schedule a public hearing on the proposed zone change of the property to PUD in the same manner as a local law. The public hearing shall be scheduled within 31 days of its receipt of the Planning Board referral recommendations or within the time-frames specified in the SEQRA regulations after the acceptance of a DEIS, whichever last occurs. The public hearing may be scheduled prior to completion of the SEQRA process or in conjunction with the public hearing on the draft environmental impact statement if the lead agency finds that the public hearing may assist in its environmental review.

7. **Decision on PUD proposal.** Within 62 days after the close of the public hearing the Town Board shall decide whether to grant approval of the proposed PUD pursuant to the reasonable terms, conditions and requirements it deems appropriate. The 62 day decision period shall not apply if the positive declaration has been issued for the PUD application, as the decision to grant approval of the PUD shall amend the Town Zoning Map as a PUD for the subject property subject to the terms and conditions of its approval. In rendering its decision on whether to disapprove or to grant approval of the proposed PUD, the Town Board may consider the following guidelines:
 - a. The need for, or suitability of, the proposed land use or uses in the subject location

- b. The compatibility of the proposed PUD with the surrounding area or neighborhood and the existing uses located on the adjacent properties in which the PUD will be located
 - c. The safeguards provided or conditions required so as to minimize possible detrimental effects or impacts that the proposed PUD may have on adjacent properties, the surrounding area in general and the Town at large.
 - d. Adequacy of drainage, water supply and sewerage disposal facilities, traffic access and municipal services that may be required.
 - e. Whether a positive or beneficial increase in tax base can be expected when compared with cost of municipal services, including but not limited to education, emergency response, highways, to be provided.
 - f. Whether the proposed PUD will further the general welfare of Town residents with sufficient protection for the health and safety of Town residents.
8. **Conditions.** The Town Board, as part of its decision and approval of the PUD, may set forth any conditions that are reasonably related and incidental to the proposed project, to the mitigation of potential impacts and/or in furtherance of the guidelines set forth above or specified in rendering its decision.
9. **Instructions for Final Site Plan review and approval.** As part of its decision, the Town Board shall specify with sufficient detail, the modifications to the site plan, if any, that the Board requires, the construction drawings or engineering plans for the infrastructure for the project, the phasing of construction of the project and any other aspects of the project requiring further review. The Town Board shall delegate the further review and approval of the final site plan and other associated drawings to the Planning Board with specific instructions as to the scope of the Planning Board review.
10. **Effect of Decision.** The Town Board decision to approve the PUD has the effect of amending the Zoning Map with respect to the property approved for the PUD so that the conditions, restrictions and terms of the PUD decision replace the zoning regulations for that PUD district. Such terms, conditions and restrictions run with the land and are enforceable by the Town in the same manner as any other zoning regulations and approval conditions so that all future owners,

operators, managers and occupiers shall be subject to the same. Such approval and any of its terms, conditions and restrictions may only be amended or modified pursuant to an application for a PUD amendment which shall follow the procedures and guidelines set forth in this section. It is the intention of the PUD procedures that at the time of the Town Board's decision to approve the PUD and rezone the property as set forth above, the Town and the applicant has committed to the PUD in sufficient detail in which to review and administer the actual development of the PUD site pursuant to the terms, conditions and restrictions of the PUD approval.

B. PUD Final Site Plan Procedures

- 1. Compliance with PUD approval.** The final site plan review and approval process is to ensure that the planned construction and operation are in compliance with the PUD approval in respect to all of the development details.
- 2. Submission requirements.** The applicant shall submit final plans, drawings and materials as defined by the Town Board as part of its PUD approval process. Generally, these will include construction drawings and details for either the first phase or entire project as well as such other information that is specified by the Town Board or the applicant during the PUD application process. The applicant shall submit such final site plan within six months of the PUD approval. The time for submission may be extended at the discretion of the Town Board.
- 3. Consultant Fees.** All applicants shall be required to pay to the town a sum of money to reimburse it for fees paid by the town to consulting planners, engineers, attorneys or other experts and/or professionals retained by the town to review the applicant's plans, maps, studies, agreements, environmental assessment forms, environmental impact statements and all other papers and proceedings required by the Planning Board, Town Board or this Chapter. A minimum of \$5,000 shall be deposited into an escrow account established for the project. The Town Board and Planning Board have the authority to require a different sum be deposited. If at any time during the review of the project the escrow account balance falls below \$2,500, the applicant shall immediately, upon notification of the Town, replenish the funds to balance identified by the Town Board or Planning Board. Should the applicant fail to replenish the account upon notification, no further action will be taken on the application until the required funds have been deposited with the

Town. At the end of the project, any sums held in escrow that exceed the invoiced expenditures shall be promptly refunded to the applicant.

- a. The Town Board will specify that the applicant shall submit either the site plan review fees pursuant to the fee schedule for site plan review or shall reimburse the costs of Town consultants for the final site plan review and inspection fees, if any.
4. **First Meeting.** The Planning Board shall review the application materials submitted and make a determination as to whether the application is complete for commencement of the final site review process. In order for an applicant to be on the agenda of a special or regular Planning Board meeting, all application materials must be submitted at least 10 days prior to the next scheduled meeting.
5. **Review Process.** The Planning Board shall review and approve, approve with modifications, or deny the final site plan and all of its components within 90 days of the complete submission. The applicant shall attend the meetings held on the final site plan. No public hearing is required but may be scheduled by the Planning Board in its discretion.
6. **Phases.** The final site plan may be reviewed and approved in phases pursuant to the standards set forth in the PUD approval.
7. **Approval.** The Planning Board shall approve the final site plan if the final site plan, for the entire project or a particular phase of the project, is in accordance with the PUD approval. Further reasonable conditions or modifications may be placed on the final site plan approval consistent with the PUD approval. Also, the Planning Board may approve minor changes to the site plan that are requested by the applicant, as necessary and/or appropriate, based on site conditions that are found subsequent to the PUD approval. Such minor changes may include the minor re-alignment of roads, infrastructure, and building sites and/or minor reduction in the number of residential units or commercial space. Any major modification or increase in residential units or commercial space will have to be referred to Town Board for its review and consent.
8. **Filing of site plan.** Once the final site plan is approved, it shall be endorsed by the Planning Board Chairman and filed with the Town Clerk within 60 days of the Planning Board approval.

9. **Commencement of Development.** The construction and/or implementation of the PUD development shall not commence until the final site plan is approved, all conditions required to be satisfied prior to construction are satisfied, and all required performance bonds are in place.

Section 84 -51. Infrastructure.

- A. **General.** All infrastructure improvements required or proposed pursuant to a PUD approval shall be constructed and completed to the standards set forth in all applicable state and local laws, rules and regulations as well as the standards or specifications, if any, established by the Town of Johnstown. For purposes of this section the term infrastructure improvements includes all roads, stormwater and drainage facilities, water and sewer facilities, and any other aspect of a PUD for which an improvement will or is intended to benefit the public or the future occupants or users of the PUD. The construction or installation of any infrastructure improvement shall be completed pursuant to the schedule of construction for infrastructure that is approved by the Planning Board during the site plan review phase of the PUD approval. If no such schedule is approved by the Planning Board all infrastructure must be completed within two years of the site plan approval.
- B. **Inspection fees.** At least ten days prior to commencing construction of required infrastructure improvements, the applicant shall pay to the Town Clerk the inspection fee required to reimburse the Town for the cost of inspecting the construction and installation of the infrastructure improvements. Such fee shall be set during the site plan review phase of the PUD approval process. The applicant shall also notify the Town of the date and time when construction of infrastructure improvements is to commence by submitting written notification to the Town Clerk and Highway Superintendent at least seven days before such commencement. The Town shall cause inspections to be made to insure that all applicable specifications and requirements are met in the construction and installation of such infrastructure improvements as required by the Planning Board or the Town Board during the PUD approval process.
- C. **Completion or Required Financial Security.** All infrastructure improvements must be either completed prior to final site plan approval or must be subject to financial security as a condition of final approval in an amount sufficient to guarantee the installation of the infrastructure improvements. Acceptable financial security shall be

provided to the Town in an amount equal to the cost of construction of the infrastructure improvements plus all necessary costs and expenses that may be incurred or expended by the Town in causing any all such work to be completed in one of the following ways: (1) by a bond executed by a highly rated security company acceptable to the Town in a form acceptable to the Town Attorney; or (2) the applicant shall present a certified check to the Town Clerk; or (3) the applicant shall present an irrevocable letter of credit payable to the Town in a form acceptable to the Town to be reviewed annually.

D. Review and Acceptance of Financial Security. For each of the options set forth in paragraph C above, the amount of the estimated construction costs shall be certified by a New York State licensed professional engineer. The proposed financial guarantee shall be reviewed by the Planning Board and its consultants for financial adequacy as a guarantee of construction and reasonable performance during any proposed period of construction. The Planning Board and the Town Attorney (or legal counsel retained by the Town for such purpose) shall jointly review the guarantee for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

E. Schedule of Improvements. Prior to or simultaneous with the negotiation and acceptance of the financial guarantee, the applicant shall provide and the Planning Board shall review and approve a written schedule for the construction, installation and completion for all required and proposed infrastructure improvements as part of the final site plan process. Such schedule shall also include the estimated cost of construction and installation for each improvement. Whenever feasible, costs and schedule of completion shall be organized by logical phases of work completion in order to facilitate the partial release of financial security held by the Town to the applicant as work is satisfactorily completed. There shall be at least a 90-day period between the completion date of all improvements and the expiration date of any bond, deposit of money, or letter of credit. Said 90-day period shall give the Town the opportunity to collect the financial performance guarantee so that it will be able to complete the necessary improvements in case (a) the developer is unable to do so; and/or (b) the Planning Board denies any requests for an extension of time. Failure to complete all Improvements within the time allotted shall cause the Planning Board (a) to draw upon the financial performance guarantee in order to complete the Improvements; and/or (b) schedule a Public Hearing in coordination with the Town Board in order to rescind related previous approvals or extend the completion date.

F. **Stage Release of Guarantees.** At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a given date together with a proposed amount to be released from the financial guarantee provided by the applicant. This statement shall follow the schedule of improvements as set forth in paragraph E above. The applicant shall submit such statement to the Planning Board for review and approval. The Planning Board may request review and comment from the Town Board or any of its consultants that it believes is appropriate to determine the accuracy of the statement. The Code Enforcement Officer, Engineer, or other official designated by the Town must also provide, in writing, proof that pursuant to inspections made, the improvement has been satisfactorily completed pursuant to the approved project plans. Once approved by the Planning Board, the Planning Board may direct the appropriate Town official to notify, in writing, the security company or financial institution having custody of the guarantee funds to release to the applicant the approved amount of those funds.

G. **Modification of Required Improvements.** If, at any time before or during the construction of the required improvements as set forth in the Town Board approved PUD, it is demonstrated to the satisfaction of both the Town Board and Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Board shall, upon approval by the Planning Board, authorize modifications to the PUD approval. If such modification affects the scope of work covered by a performance bond, any agreement to modify the required improvements by the Town Board and Planning Board shall be contingent upon receipt by the third-party guarantor a written statement that the third-party guarantor agrees to the proposed modification of the required improvements and that such modification shall not relieve or affect the liability of the third-party guarantor.

H. **Extension of Bond.** The time period specified for the completion of all required improvements, as set forth in the financial guarantee, may be extended only by resolution of the Planning Board upon request in writing by the applicant, setting forth in detail the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested. The Planning Board resolution agreeing to an extension shall be affixed to the financial guarantee. In the case of a performance bond, such an

agreement for an extension shall not be effective until the third-party guarantor delivers to the Planning Board a written statement that the third-party guarantor agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the third-party guarantor.

- I. **Acceptance of Public Infrastructure Improvements.** When any infrastructure or other aspect of the PUD is to be offered for dedication to the Town as a public improvement, and the Town's project inspector, following final inspection of the completion of that improvement and the PUD project, the Town Board may act by resolution to accept dedication of the public improvements.

- J. **Maintenance Guarantee.** Upon acceptance of required public improvements or upon certification that infrastructure improvements have been satisfactorily completed, the Town may require the establishment of a maintenance guarantee. All such guarantees shall be for a minimum of 10% of the financial guarantee originally required by the applicant or such amount required by the Town to sufficiently ensure that the improvements will be adequately maintained for the period specified by the Planning Board. The maintenance guarantee shall be provided by one of the methods set forth in paragraph C above and reviewed and accepted pursuant to paragraph D above. All maintenance guarantees shall commence immediately upon acceptance of the public improvements or upon certification of completion of all other infrastructure improvements and be in place prior to release of the previous performance guarantees.

Section 84 -52. Hales Mills Road Extension Planned Unit Development District.

- A. **Purpose.** The Hales Mills Road Extension Planned Unit Development District is established in order to promote orderly development consistent with the current Town of Johnstown Master Plan. In addition to meeting the general purposes of this district as established in this Code, the Hales Mills Road Extension Planned Unit Development District encourages projects that if proposed shall provide the following:
 - 1. A mix of residential, retail, professional, and entertainment business to enhance the Town's commercial tax base

2. A range of building and floor formats that supports a diversified retail, professional, and residential setting and that enhances the variety of such choices in the Town;
3. Creation of buildings and streetscapes that are characteristic of traditional main streets and town-center settings. This includes, but is not limited to, characteristics pertaining to the scale of the buildings, the proportion of architectural features and windows, the selection of traditional exterior treatments, the configurations of buildings with each other, and the relation of buildings to streets, sidewalks, and public open spaces;
4. Creation of a commercial, retail, and residential neighborhood setting that is designed to promote walking as a safe and preferred form of mobility within the development and to surrounding neighborhoods. The development can promote walking as a preferred choice when pedestrians:
 - a. Understand the overall pattern of streets and uses in the development;
 - b. Believe they can easily access multiple destinations as one would in a grid-like street pattern, versus cul de sacs;
 - c. Recognize that the development or neighborhood is designed at a scale suitable for the public comfort and wellbeing of pedestrians;
 - d. See that the buildings, sidewalks, parking, and public spaces are inviting and safe to walk among;
 - e. See that traffic intersections, crossings, and parking lots are compact and safe to negotiate.
5. Reduction or avoidance of the visual prominence of parking facilities, lighting, and signage in order to promote a traditional main street or town-center setting;
6. Allows for future development in and around the District to be readily integrated in terms of access, design, and uses in order to:
 - a. Maintain the design integrity of the PUD development;

- b. Protect the substantial public investment in the Town's planning efforts and resources;
- c. Encourage traditional town-center design and provide for a planned transition to neighboring uses and densities that may be inconsistent with traditional town-center design.

B. Applicability.

1. An applicant proposing one or more buildings with an aggregate single-floor footprint greater than 50,000 square feet on a single lot or as part of a unified retail development plan shall be required to apply for and obtain a PUD under the provisions of this Article.
2. Any eligible applicant may apply for an approval of development in this District, and which application shall be made pursuant to Article 9, Planned Unit Development, except as modified herein.

C. Density. The permitted bulk regulations and average density for subdivision of the Hales Mills Road Extension Development District, if different from the underlying zone, shall be established by the Town Board.

D. Uses. A mixture of uses is encouraged in the Hales Mills Road Extension Planned Development District. Any appropriate mix of uses identified in this Chapter for residential and commercial zoning districts and meeting the purposes of this Section are permitted, subject to approval of the PUD. Uses shall additionally comply with the following:

1. Not more than 50 percent of the gross floor area of all development in the District shall consist of residential development.
2. Non-residential uses shall be clustered with other non-residential uses; however, this shall not preclude the sharing of residential and non-residential uses within the same block or building.

E. Open Space. Formal open spaces and parks shall be provided for the use and convenience of residents, workers, and visitors to the site. For purposes of this Section, open space means parks that are appropriate in scale and programming to a traditional main street or town-center. Such parks may include, but not limited to, the

following: neighborhood park, town greens and squares, plazas, pocket parks, esplanades, memorials, playgrounds, and neighborhood-scale amphitheatres. Open space uses, pursuant to this section, shall not be less than 30 percent of the proposed acreage for the developed portion of the site. Parks shall be arranged throughout the site to provide meaningful access and use of the proposed parks.

Natural features and pre-development open spaces may be set aside for protection. If protected open spaces are proposed in the PUD application, the applicant shall examine the feasibility of integrating such features with the objectives and goals of the Town's recreational plans or studies, if available. Likewise, the applicant shall examine the feasibility of using such spaces to provide pedestrian connections between the proposed development and adjacent commercial, retail, and residential neighborhoods.

- F. **Infrastructure.** The Hales Mills Road Extension Planned Unit Development District shall provide for the provision of infrastructure pursuant to a plan approved by the Town Board. All uses proposed pursuant to this Article shall be served by off-site water and sewage system. All water, sewer, and gas lines, and all other lines providing power and communication services shall be installed underground in the manner prescribed by appropriate state and local agencies and the servicing utility companies.
- G. **Design Standards.** Any development proposed pursuant to this Section shall additionally conform to the design standards and requirements enumerated in this Article.
- H. **Phasing.** If the proposed development contains residential uses, then residential and non-residential uses shall be included in each phase of the development to assure that each phase maintains an appropriate mix of residential and nonresidential uses required by this Article.
- I. **Project Narrative and Timeline.** The applicant shall prepare a project narrative of sufficient length and detail describing how the project fulfills the purpose and goals of the Town's Master Plan and this Article and Section. The applicant shall also prepare a timetable which includes specific dates for the completion of different aspects of the project to be used a guide for the Town and the Code Enforcement Officer.

Section 84 -53. Development Design Standards and Guidelines.

A. **Intent.** The design standards and guidelines contained herein are intended to promote high quality development and public spaces in Planned Unit Developments. Likewise, these standards and guidelines are recommended for incorporation into the design of other developments in the Town. Future development should promote the substantive public benefits from traditional public spaces, as envisioned by the design standards herein. The Town recognizes that the cumulative application of these standards will provide more public benefit than may be realized by selectively applying certain standards and guidelines. The purpose of these standards is to realize the following:

1. To promote and foster distinctive destinations while reducing the sameness in appearance of commercial and retail development associated with minimum or no public design control;
2. To promote the use of designs and materials that traditionally characterized town development in the Town of Johnstown;
3. To realize developments that avoid excessive competition for public attention through the use of dominant signage, excessive site lighting, and other means of attracting customer attention;
4. To promote high quality architectural and community design;
5. To ensure an attractive and enduring development;
6. To promote development of commercial areas that would benefit from a coherent and traditional design, and thereby enhance and promote the Town;
7. To foster a viable pedestrian experience that sustains a mix of uses;
8. To promote residential development that may take special advantage of nearby retail and commercial services, residential uses, golf courses, and open space recreation.

B. **Applicability.** Standards contained herein are required to be met for projects subject to this Section, and are denoted by use of the term ‘shall.’ Guidelines are strongly

encouraged, however are not required to be met. All references to figures and illustrations in this Section are contained in Appendix D.

C. **Building Placement.**

- a. **Intent.** Standards for building arrangements draw from traditional ideas about community design, primarily the model of design typified by American Main Streets. [Please Refer to Figures A and B of Appendix D]
- b. **Design Standards.**
 - i. The following building setback distances shall be adhered to:
 - (a) 10 feet along major roadways;
 - (b) 15 feet along minor/internal roadways;
 - (c) Setbacks of up to 20 feet are allowed, only if the setback space is for public use. Such use may include, among others, space for outdoor eating, benches, and temporary retail sales.
 - (d) The planning board may increase setbacks upon request by the applicant and for purposes of improving lines of sight for vehicular traffic. Increased setbacks may not exceed 20 feet.
 - ii. All roadways shall have sidewalks that provide safe access within and to the site.
 - iii. Zero foot side yard setbacks (party walls) are an encouraged building practice.
 - iv. Building frontages shall occupy not less than 70 percent of the fronting lot line. Building frontage shall mean the length of a front building façade expressed as a percentage of the lot line along said façade. Building frontages in excess of 200 feet are encouraged to be punctuated by access points, façade changes, or other similar breaks in the visual continuity of a façade.

- v. Primary façade and primary entrances shall face and be setback from the primary street. Secondary entrances are encouraged for parking lots arranged to the side and rear of buildings.
- vi. Buildings facades and other site improvements shall be oriented parallel or perpendicular to public sidewalks and roadways.
- vii. Smaller turning radii are encouraged to slow traffic speeds at the site. Buildings abutting major intersections may be setback up to an additional 10 feet, to the degree that such setbacks provide meaningful improvements in traffic lines of sight.
- viii. Access points that serve multiple buildings or tenants should be reduced to limit curb cuts and the creation of conflict points with pedestrians.
- ix. Internal and access roads should be interconnected and laid out in walkable blocks.
- x. Cul-de-sacs and dead end streets shall be prohibited, unless the configuration of the lot prohibits strict compliance with this requirement.

D. Public Off-Street Parking.

1. **Intent.** The following standards promote traditional design by reversing the conventional placement of parking that characterizes suburban style retail centers. By bringing buildings to the front of the site and parking to the rear, this restores the emphasis on walkability, emphasizes human-scale architecture, and improves aesthetics by reducing the severe visual effect of expansive parking lots. [Please Refer to Figure C of Appendix D]
2. **Design Standards.**
 - a. Off-street parking shall be at the rear of buildings. If more is necessary, the side of the building may be used.
 - b. Onsite landscaping fencing are encouraged and constructed of durable materials, such as wrought iron or brick.

- c. Planting medians should be designed to promote pedestrian safety, facilitate vehicle circulation, and to lessen the harsh visual impacts of a not landscaped parking lot.

E. On-Street Parking.

- 1. **Intent.** On-street parking is promoted to encourage a pedestrian oriented street environment. By dedicating space for the safe mixing of traffic, parking, and pedestrians, a shared sense of ‘ownership’ between people and cars is created. [Please Refer to Figure D of Appendix D]

2. Design Standards.

- a. On-street parking is recommended for secondary streets, side streets, and internal streets.
- b. A combination of landscaping, signage, painted parking lines, and curbing should be used to signify appropriate sites for on-street parking.
- c. To enhance pedestrian safety at crossings, On-street parking shall be defined at intersections by ‘bulbing-out’ the sidewalk area, to provide enhanced pedestrian crossings.
- d. On-street parking shall be prohibited on Hales Mills Road Extension.

F. Screening and Buffers.

- 1. **Intent.** Buffers dampen the impacts of light and sound between incompatible uses. A variety of techniques can be used that are both functional and aesthetically sensible. [Please Refer to Figure E of Appendix D]

2. Design Standards.

- a. Landscape buffers shall be used between offsite residential and onsite commercial areas. Buffers may include plantings of various heights, widths, berms, and fences.
- b. Screening shall provide a vertical barrier and shall be designed to block visual or

noise impact to the maximum extent practicable.

- c. Parking lots and service areas shall be adequately screened with landscaping materials.

G. Signage.

1. **Intent.** The following standards shall supplement existing Town regulations. Where there are competing requirements, the more restrictive shall prevail. [Please Refer to Figure F of Appendix D]

2. Design Standards.

- a. The signs in the Planned Unit Development shall be limited to the following: wall signs, freestanding, window, permanent changeable sign copy signs, special sales, and sandwich boards.
- b. Freestanding signs shall be designed as a monument sign
 - i. Monument sign shall mean a freestanding sign where the base of the sign structure is permanently constructed into the grade and is typically integrated into the landscaping of the site. The width of the top of the sign structure shall be no more than 100 percent of width of the at-grade portion of the sign.
 - ii. Freestanding sign dimensions shall be no larger than eight (8) feet in height or four (4) feet in width.
- c. Square footage of on-premise signs shall be no greater than 150 square feet or no more than 10% per business facade, whichever is less.
- d. A total of 4 window signs is allowed for each independent business. Such signage shall not exceed 30% of total first-floor window area.

H. Site Lighting.

1. **Intent.** The size, height, and style of the lamp along with the kind of lighting can signify places of importance and points of access. Human-scaled dimensions help to

reinforce the sense that the place was designed for pedestrian activity. [Please Refer to Figure G of Appendix D]

2. **Design Standards.**

- a. All exterior lights are to be arranged and installed so that the direct or reflected illumination does not adversely spill into any adjoining property;
- b. Signs shall not be back-lit;
- c. Pedestrian lighting shall not exceed 12 feet in height;
- d. Area lighting shall not exceed 18 feet or 2 feet lower than building height, whichever is lower;
- e. Preferred order of light type shall be, with most preferred first: high-pressure sodium, metal halide, low-pressure sodium
- f. Flashing lights or rotating sign are prohibited

I. **Sidewalks and Public Spaces.**

1. **Intent.** Sidewalks form the backbone of any pedestrian-friendly community and are integral to building community. In order for sidewalks to be functional they must provide many of the same functions of roadways. They must link destinations people want and need to go to. They must be safe, with special attention given to children. Also, they must be easy to travel upon and navigate.

2. **Design Standards.**

- a. Sidewalks shall be constructed of brick, concrete or stone pavers.
- b. Sidewalks shall be a minimum width of eight (8) feet.
- c. Sidewalk connections to other neighborhoods shall be a minimum width of five (5) feet with a planting strip between the sidewalk and the curb that shall be a minimum width of four (4) feet.

- d. Sidewalk paving shall continue across parking lots, driveways, and other vehicle access points in order to signify priority to pedestrian right-of-way.
- e. New sidewalks should connect to adjacent properties.
- f. Where no planting strip is present, street trees shall be planted between the curb and build-to line. Plantings shall consist of one large deciduous tree for every 35 feet of linear road frontage. Spacing shall be even, except where access points prevent this.
- g. Tree plantings in the sidewalk should be covered with a metal grate.

J. Architectural Design – Proportion.

1. **Intent.** Building proportion and scale are important for creating a cohesive streetscape that evokes traditional Town-center design. A streetscape punctuated by out of scale buildings may create visual gaps or disrupt the rhythm of activity along the street. A coherent building scale provides continuity and may evoke the sense of commercial purpose found in the American Main Street model. Buildings that are too tall can create a canyon effect or result in large blank surfaces. Buildings that are too small will not support the level of activity to sustain a traditional commercial streetscape. Within the framework provided by these standards, variations in building height and architectural detail are encouraged. [Please Refer to Figure H of Appendix D]

2. Design Standards.

- a. Buildings shall promote a pedestrian friendly environment. Building proportions within a block should strive for a distinct and coherent rhythm, such as taller buildings anchoring a block corner or consistency in the number of levels of new buildings.
- b. A pedestrian orientated scale and environment at the street level shall be implemented; whereas a distinct differentiation may be evident between a building's upper levels and its first level.
- c. New building construction shall be a minimum of two stories and shall not exceed four stories in order to provide a coherent built environment that

promotes main-street community character and that protects the substantial investment of public and private resources into creating said character.

- d. First floor should be a minimum of 12 feet high.
- e. Maximum building height shall not exceed 50 feet, as measured from the average grade elevation to the roof surface, excluding rooftop specialty equipment, parapets, and similar architectural features.

K. Roof.

1. **Intent.** A roof style as viewed from the street is an important feature in promoting traditional style. [Please Refer to Figure I of Appendix D]

2. **Design Standards.**

- a. Pitched and flat roofs are both permitted.
- b. Flat roofs are to incorporate a parapet along facades facing any public street, including architectural cornice detailing. Plain parapets will be prohibited.
- c. Pitched roofs will complement the overall style and scale of the building. Materials for pitched roofs shall avoid having a reflective finish and incorporate a color that complements the overall character of the building. Pitched roofs shall take measures to ensure that falling snow, ice or rain do not create pedestrian hazards.

L. Fenestration and Facades.

1. **Intent.** Fenestration refers to the placement and pattern of windows along a face of a building. They not only provide a source of natural light to the buildings inhabitants and employees, they also provide transparency between activities inside and outside of the building. They allow more ‘eyes on the street’ for safety purposes and allow customers and visitors to inspect street-side businesses and retailers. [Please Refer to Figure J of Appendix D]

2. Design Standards.

- a. Building façades should be broken down into smaller distinct portions suitable for pedestrian scale.
- b. Between each building entrance, one or more architectural elements should be used to break up the façade.
- c. The ground floor level shall provide the greatest amount of facade opening and articulation.
- d. Floor to ceiling windows are strongly encouraged. Windows shall not be mounted flush to the exterior of the facade.
- e. Blank, windowless walls facing sidewalks, streets, and other public spaces are prohibited.
- f. The upper floors shall use a decreasing percentage of facade opening to reinforce a “base”, “middle”, and “top” facade pattern. The use of depth is encouraged to highlight facade openings such as windows.
- g. The openings in the facade shall be framed in a lintel or arch (and a sill at the bottom for windows) which is visible to the observer.
- h. Pairs of window shutters may be used, but shall be used consistently and should appear to actually cover the entire window opening when closed.

M. Architectural Design - Awnings and Canopies.

1. **Intent.** Awnings and canopies can soften an otherwise stiff streetscape and their use is encouraged. They should promote a coherent streetscape and avoid escalating competition for consumer attention. [Please Refer to Figure K of Appendix D]

2. Design Standards.

- a. Awnings and canopies are not required components of building design, however, their use is strongly encouraged on facades that face public streets.

- b. Awnings and canopies should be canvas. Plastic, metal and wood awnings are not permissible.
- c. Color schemes should be consistent with the overall building color palette.
- d. Retractable awnings are permitted.
- e. Awnings to which signs may be attached must be fastened to the façade of the building and not supported from the ground.

N. Specialty Equipment.

1. **Intent.** Specialty equipment can be incorporated into traditional designs with the use of simple screening techniques. [Please Refer to Figure L of Appendix D]

2. **Design Standards.**

- a. Rooftop mechanical equipment, such as HVAC, satellite dishes, antennas and other equipment shall be screened from public view. This may be achieved through the use of architecturally compatible materials that are integral to the overall building design.
- b. Landscaping, natural material walls and fencing or other design treatments compatible with the principle structure will be used to screen from public view any ground level mechanical and service equipment such as air conditioning equipment and utility boxes.
- c. Wireless cellular telecommunications equipment and antennas shall be administratively approved uses, consistent with Town regulations governing Wireless Communications Towers (Article 6). Such equipment and antennas shall be located on existing or proposed buildings and considered an accessory use. The equipment shall be screened and/or in a muted color which is consistent with the overall building color palette. Stand-alone towers would be prohibited and co-location would be required. The following height restrictions shall supercede applicable height and placement restrictions set forth in Article XVIII for administratively approved uses, but not in contravention of applicable state and federal regulations: No equipment shall project above the base of a parapet or roofline of an existing or proposed building.

O. **Architecture Design - Materials and Colors.**

1. **Intent.** Excessive variation in construction materials can result in a visually jumbled streetscape. However, some variation is welcomed and encouraged in order to create visually interesting buildings and architecture. Materials and colors should mimic traditional building materials and be relatively maintenance free.

2. **Design Standards.**

- a. The quality of exterior materials shall be sufficiently durable to guarantee low maintenance, stability, and a reasonable life span. Red brick, special masonry units, natural stone and wood are preferred materials. Other acceptable materials may include materials that are consistent with emerging technologies that simulate natural materials. Unacceptable facade materials include beige brick, plain (bare) masonry units, vinyl siding, and metal siding.
- b. Vinyl, glass, or metal enclosure of structures and buildings are prohibited.
- c. Trims are encouraged and may consist of finished grade painted or stained wood rather than bare, lumber grade, wood.
- d. Windows may have anodized aluminum or wood frame. Bare aluminum frames are prohibited.
- e. Building colors shall be compatible with the traditional building colors in the region.
- f. Fluorescent exterior colors may not be used.
- g. Preferred natural materials include wood, stone, stone veneer, red common brick, non-paneled metal, and smooth or patterned block.

ARTICLE 10 SPECIAL USE PERMITS

Section 84 -54. Special Use Permits.

- A. **Purpose.** Pursuant to the land use policies and goals of the Town of Johnstown, it is the policy of the Town of Johnstown to balance the allowance and encouragement of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Many uses are, therefore, permitted only upon issuance of a Special Use Permit by the Planning Board in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria on a case-by-case basis. In some instances, approval of a site plan by the Planning Board is also required. In such cases, the applicant may request that the procedures for the Special Use Permit and site plan approval be run concurrently and such request will not be unreasonably denied.
- B. **Applicability.** Uses requiring Special Use Permits are identified in the Use Table found in Appendix A. Accessory uses or structures used in connection with a Special Use Permit use shall be subject to the same Special Use Permit approval requirements as the principal structure or use.
- C. **Required Plans and Submittals.** Because the impact of Special Use Permit uses varies greatly, the information required to be submitted for a Special Use Permit may vary depending upon the scale, intensity, nature of the proposed use and its proposed location. An applicant for a Special Use Permit shall submit at least 1 original and 10 copies of the following together with whatever other information the Planning Board deems appropriate:
1. A Town of Johnstown Special Use Permit application form.
 2. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined below.
 3. A narrative describing the proposed use and operation.

4. A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Planning Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal).
5. The application fee as established by the Town Board, and an escrow deposit for reimbursement of cost of Town consultants (if required) pursuant to Article 2 of this Chapter.
6. The Planning Board may waive or add any requirements for an application submission if it deems appropriate in order to accomplish the purposes set forth herein.

D. Procedure.

1. Application.

- a. **Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.
- b. **Scheduling.** In order for a Special Use Permit application to be placed on the Planning Board's meeting agenda, the required application materials shall be submitted to the Planning Board at least 7 days prior to the date of the Planning Board's meeting. In order for a pre-application conference, as described herein below Paragraph 2, Optional Pre-application Conference, to be scheduled, a request for such conference shall be in writing identifying the subject property, its owner and the proposed use, and shall be submitted 7 days prior to the meeting at which the conference is requested to be scheduled.
- c. **Completeness Review.** At the first meeting at which an application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an

application is determined to be incomplete, the Planning Board shall notify the applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete.

2. **Optional Pre-application Conference.** Prior to submitting a completed application, the applicant may elect to attend a Planning Board meeting to discuss the nature of the proposed use and to determine the information that will need to be submitted. The purpose of this meeting is for the applicant and the Board to informally discuss the proposal and the relevant issues involved before the applicant expends significant time or money in application submittals.
3. **Application for Area Variance.** Where a proposed Special Use Permit application contains one or more features which do not comply with the dimensional regulations of this Chapter, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to this Chapter without a decision or determination by the Code Enforcement Officer. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same must occur as a condition to the issuance of the Special Use Permit, as a prerequisite for a complete Special Use Permit application, or in conjunction with the Special Use Permit process.
4. **SEQRA Compliance.** Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 30 days of its acceptance of a completed application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

5. Referral to County Planning Board.

- a. §239-m of the General Municipal shall be adhered to .

6. Agriculture Data Statement. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.

- a. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Use Permit application to all owners of land within five hundred (500) feet of the project property within an agricultural district and containing farm operations as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

7. Notice and Hearing.

- a. The Planning Board shall hold a public hearing on a complete Special Use Permit application within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Planning Board.
- b. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to all adjoining property owners and to any other property owners in the affected area that the Planning Board may require to be notified.
- c. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board must give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.

8. Review Criteria.

- a. In considering and acting on uses requiring a Special Use Permit, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Board may prescribe such appropriate conditions and safeguards as may be necessary in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the criteria set forth below. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria, as well as any special criteria, if any, for the particular type of use set forth as a Special Use Permit Condition have been met:
- b. **Harmony With Master Plan.** The use shall be in harmony with and promote the goals and objectives of the current Master Plan for the Town, and shall be in compliance with this Chapter and shall promote the health, welfare and safety of the public.
- c. **Compatibility.** The proposed use shall be compatible with the character of neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.
- d. **Access, Circulation and Parking.** The proposed use shall have safe and efficient access for pedestrians and vehicles, shall provide for appropriate off-road parking and loading areas. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and that adequate and safe integration of pedestrian and vehicular movement is provided.
- e. **Infrastructure and Services.** There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or that the project extends or provides infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the

operation of the proposed use that may affect the public safety, health and general welfare.

- f. Environment and Natural Features. The proposed use shall be compatible with, and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development and the general landscaping, screening and buffering shall be in character with the surrounding areas, and the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare shall be minimized to the maximum extent practicable.
- g. Long Term Effects. The proposed use shall provide positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the town and surrounding properties, districts and uses.
- h. Compliance with Supplemental Regulations. The proposed use shall be compliant with any applicable special use permit criteria or supplemental regulations established in this Chapter.
- i. Animal Husbandry. For Animal Husbandry uses requiring a special use permit, applicants and the Planning Board shall also refer to Section 84-18 of this Chapter.

9. Action.

- a. The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the general criteria contained in this Article as well as any special criteria for the particular type of use as established in this Chapter.
- b. In granting a Special Use Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Chapter and the Town's Master Plan. These conditions may include increasing dimensional or area

requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

10. Expiration, Change of Use, Revocation, and Enforcement.

- a. A Special Use Permit shall expire if the Special Use Permit use or uses cease for more than 12 consecutive months for any reason, if the applicant fails to obtain the necessary Certificate of Compliance or fails to comply with the conditions of the Special Use Permit within 12 months of its issuance, or if its time limit specified in the Special Use Permit expires without renewal.
- b. A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit (as determined by the Code Enforcement Officer in issuing a Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.
- c. A Special Use Permit may be revoked by the Town CEO if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.
- d. Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

E. **Findings Required.** In granting or denying Special Use Permits, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the criteria set forth in this Article, subsection 8, Review Criteria, any

applicable requirements and purposes of this Chapter, and the policies and goals of the current Master Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

- F. **Amendments.** The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures subject to a valid special use permit shall require a Special Use Permit amendment.

ARTICLE 11 SITE PLANS

Section 84 -55. Site Plans.

A. **Purpose:** The purpose of this Article is to allow the proper integration into the Town of those uses listed in the Use Table – Appendix A of this Chapter, which have been determined to be suitable within a zoning district only on certain conditions and only at appropriate locations. Because of their characteristics, or the special characteristics of the area in which they are proposed to be located, these uses require special consideration so that they may be properly located, planned and developed taking into consideration:

1. The objectives of this Chapter;
2. The proposed uses effect on surrounding properties;
3. The ability of the Town to accommodate the growth resulting from the proposed use without undue, adverse effect on the Town, the Town's infrastructure and the Town's citizens and taxpayers;
4. The protection of the health, safety and general welfare of the Town and its citizens; and
5. The objectives of the Town Master Plan.

Pursuant to the land use policies and goals of the Town of Johnstown, it is the Town's policy to balance the allowance of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Many uses, therefore, require review and approval of a Site Plan by the Planning Board before such uses and site development is permitted. The primary purposes of Site Plan review and approval is to ensure that the site can accommodate the proposed use without unduly affecting neighboring properties or the environment and that the site is appropriately designed.

B. **Applicability.** Site Plan approval is required for certain uses where Site Plan approval is required as part of the conditions for a Special Use Permit or where Site

Plan approval is required pursuant to this Chapter. For such uses, the Code Enforcement Officer shall not issue any zoning permit or building permit, or certificate of occupancy or compliance until a site plan has been approved in accordance with this Article. Until such site plan has been approved, and a zoning permit and building permit issued, no building shall be erected, moved, structurally altered, added to or enlarged and no excavation or site preparation activities shall commence.

C. Application Procedures.

1. **Placement on Agenda.** In order for a Site Plan matter to be placed on the Planning Board's meeting agenda, the required application materials pursuant to paragraph (5), "Application for Site Plan Approval," below shall be submitted to the Planning Board at least 7 days prior to the date of the Planning Board's meeting. In order for a sketch plan conference, as described in paragraph (4), "Sketch Plan," to be scheduled, a request for such conference shall be in writing identifying the subject property, its owner and the proposed use, and shall be submitted 7 days prior to the meeting at which the conference is requested to be scheduled.
2. **Completeness Review.** At the first meeting at which a Site Plan application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the Applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete. As such, the scheduling of a sketch plan conference may resolve confusion and thereby save time by allowing an opportunity for the applicant and the Planning Board to identify what documentation will be expected in order to constitute a complete application.
3. **Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring Site Plan approval is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an

application (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.

4. **Sketch Plan.** The applicant may elect to hold a sketch plan conference with the Planning Board prior to the preparation and submission of a formal site plan. The use of the sketch plan conference is strongly encouraged since it may provide for a more efficient and predictable review process and avoid unnecessary costs. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. As such, an applicant is encouraged to schedule and attend the sketch plan conference. In order to accomplish these objectives, the applicant should provide the Planning Board with as much information as is practicable; the following is suggested:
 - a. A sketch plan showing (to an approximate scale) the locations and dimensions of existing and proposed principal and accessory structures, parking areas, and other planned features;
 - b. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features;
 - c. A statement or sketch showing significant environmental features such as streams, wetlands, forested areas, and flood plain areas; and
 - d. A topographic or contour map of adequate scale and detail to show site topography.

At the sketch conference, or within 31 days after the sketch conference has been held, the Planning Board shall provide the applicant with a list of information to be submitted with the site plan application as well as any recommendations that the Planning Board may have with respect to the proposed application. The list of information may be drawn from the checklist set forth in paragraph (5), "Application for Site Plan Approval," as determined necessary by the Planning Board.

5. **Application for Site Plan Approval.** An application for site plan approval shall be made in writing to the Planning Board on forms supplied by the Town and shall be accompanied by the required fee, a site plan map (prepared by an engineer, architect or land surveyor licensed in New York State) and such other material that includes the information contained on the following checklist. If a sketch plan conference was held, the information accompanying the site plan shall include any items that the Planning Board indicated at the conference would be required. The following is a Site Plan Checklist:
- a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 - b. North arrow, scale and date;
 - c. Boundaries of the property plotted to scale of one inch to 50 feet (if the property is located in more than one zoning district, the boundaries of the districts shall also be shown);
 - d. Existing contours (unless otherwise indicated by the Planning Board, two-foot contours shall be required showing the topography for all disturbed areas of the parcel and land within 100 feet of such areas);
 - e. Existing watercourses and wetlands;
 - f. Grading and drainage plan, showing existing and proposed final contours;
 - g. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
 - h. Location and widths of existing and proposed driveways for the site and access to existing roads and highways. Location to nearest intersection of public roads to be provided.
 - i. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
 - j. Provision for pedestrian access if applicable;

- k. Location of outdoor storage, if any;
- l. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- m. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- n. Description of the method of securing potable water and location, design and construction materials of such facilities;
- o. Location of fire and other emergency zones, including the location of fire hydrants;
- p. Location, design and construction materials of all energy distribution facilities, including electrical, gas and alternative energy;
- q. Location, size and design and type of construction of all proposed signs;
- r. Location and proposed development of all buffer areas, including existing vegetative cover;
- s. Location, design, type, and uses of exterior lighting and signs;
- t. The type, location, and hours of activities likely to generate noise or ground vibrations of a magnitude as to be a public concern;
- u. Location and design of outdoor lighting facilities;
- v. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- w. General landscaping plan and planting schedule;
- x. An estimated project construction schedule.
- y. Record of application for and approval status of all necessary permits from federal, state and county officials.

- z. Identification of any federal, state or county permits required for the project's execution;
 - aa. description of the proposed use or uses, including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated.
 - bb. Stormwater Pollution Prevention Plan (SWPPP) for all land development activities (excluding agricultural activities) on the site that results in land disturbance of 1-acre or more. A SWPPP shall comply with NYSDEC requirements for stormwater discharges from construction activities. It shall be at the discretion of the Planning Board as to whether a SWPPP shall be required for disturbances of less than 1-acre and which are not otherwise subject to such regulations.
 - cc. Other elements or information integral to the proposed development as considered necessary by the Planning Board.
 - dd. Environmental Assessment Form with Part 1 completed.
6. **Waivers.** If the Planning Board finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information requirements as it deems appropriate. The Planning Board may grant such waivers on its own initiative or at the written request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.
7. **Review of site plan.** The Planning Board shall review the site plan to promote the health, safety, and general welfare of the Town and its citizens. The review shall include, as appropriate, but is not limited to, the criteria set forth in this Chapter for such as well as the following general considerations:
- a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. Signs and lights will be compatible and in scale with building elements and will not dominate the overall visual impact of the project and neighborhood.

- b. If outdoor lighting is provided, all lighting shall be so located as not to be visible at the source from any adjoining property.
- c. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- d. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- e. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- f. Adequacy of storm water and drainage facilities.
- g. Adequacy of water supply and sewage disposal facilities,
- h. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of the existing vegetation.
- i. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- j. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- k. Adequacy of open space areas, if any, for its intended use.
- l. Protection of adjacent or neighboring properties against noise, glare, unsightliness, odors, smoke, dust or other objectionable features.
- m. Adequacy of setbacks in regard to achieving maximum compatibility and protection to adjacent properties and residential districts.
- n. Compatibility of structures with existing and planned uses of adjacent properties.

- o. Consistency with Town Master Plan.

8. **Planning Board Action On Site Plan.**

- a. **No Public Hearing.** If no public hearing is scheduled by the Planning Board for the receipt of public comments regarding the site plan, the Planning Board shall render a decision, file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer within 62 days of the acceptance of a completed application for site plan approval.
- b. **Discretion to Schedule Public Hearing.** The Planning Board has the discretion to hold a public hearing on the application if the Planning Board determines that there are factors involved (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing. If the Planning Board determines to hold a hearing, it shall be held within 62 days of the receipt of a complete application and the decision on the site plan shall be made within 62 days from the close of the public hearing. The time within which to hold a public hearing or which a decision shall be rendered may be extended by mutual consent of the applicant and Planning Board.
- c. **Issuance of Permit.** Upon approval of the site plan, the Code Enforcement Officer has the authority to issue a Zoning Permit provided any pre-development conditions have been met and to issue a Certificate of Compliance upon completion of the development of the site in strict accordance with the approved site plan and any conditions attached thereto
- d. **Disapproval of Site Plan.** Upon disapproval of a site plan, the Planning Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing, within 5 business days, of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

9. Notice and Hearing.

- a. The Planning Board shall hold a public hearing on a complete Site Plan application within 62 days from the determination of the Planning Board that the application is complete and that a hearing is appropriate. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Planning Board.
- b. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice, by first class mail, thereof to all adjoining property owners and to any other owners of property located within 200 feet from the parcel for which the site plan is proposed. The Planning Board may notify other owners of other parcels as it deems appropriate.
- c. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board shall give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.

10. Reimbursable costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan as well as its implementation and inspection shall be charged to the applicant.

11. Performance guarantee. No Certificate of Compliance shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board and it may consult with the Code Enforcement Officer, Town Attorney and other appropriate parties in making such determination.

12. Inspection of improvements. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. If the site is not being developed in strict compliance with the approved site plan and

any conditions attached thereto, the Code Enforcement Officer shall issue a stop work order and demand compliance with the approved site plan and any conditions attached thereto. An approved site plan may not be modified except by the Planning Board upon application for such modification from the applicant.

13. **Integration of procedures.** Whenever the particular circumstances of proposed development require compliance with either the special use permit procedure in this Chapter or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.
14. **Application for Area Variance.** Where a proposed Site Plan contains one or more features that do not comply with the dimensional regulations of this local law, application may be made to the Zoning Board of Appeals for an area variance pursuant to this Code without a decision or determination by the Code Enforcement Officer. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same shall occur as a condition to the approval of the site plan, as a prerequisite for a complete site plan application, or in conjunction with the site plan process.
15. **SEQRA Compliance.** Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review (SEQRA) process (unless the process has been already commenced pursuant to the Special Use Permit process for the same project) by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.
16. §239-m of the General Municipal Law shall be adhered to. Referral to County Planning Department.

17. **Agriculture Data Statement.** An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.

- a. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Site Plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

D. **Guidelines.** The Planning Board, in reviewing non-residential site plans, shall consider the guidelines set forth below.

1. **Layout and Design.**

- a. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Town of Johnstown.
- b. Individual structures on the site shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement.
- c. Where feasible, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
- d. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.

2. **Landscaping.**

- a. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.

- b. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Town's environment.
- c. Where feasible, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
- d. If deemed appropriate for the site by the Planning Board, shade trees at least six feet tall shall be planted and maintained at 25- to 50-foot intervals along roads, at a setback distance acceptable to the Town Highway Superintendent.

3. Parking, Circulation, and Loading.

- a. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
- b. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Planning Board, where appropriate.
- c. Off-street parking and loading requirements of this Chapter shall be complied with, and parking areas shall be located behind buildings wherever possible.
- d. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
- e. All structures shall be accessible by emergency vehicles.

4. Miscellaneous Standards.

- a. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
- b. The site lighting shall limit glare on adjacent roads and properties.

- c. Drainage of the site shall recharge ground water to the extent practical. Surface waters flowing off-site shall not degrade any streams or adversely affect drainage on adjacent properties or public roads.
- d. Dispersal of construction and demolition wastes shall meet all applicable local, county, state, and federal requirements.

5. Reservation of Parkland.

- a. For any site plan containing residential units, the Planning Board may require the reservation of parkland or payment of a recreation fee pursuant to NYS Town Law, Section 274-a(6), or its successor legislation.

E. Action. The Planning Board shall approve, approve with modifications, or disapprove the Site Plan within 62 days after the determination by the Planning Board that the Site Plan and accompanying application is complete, or if a public hearing has been held, within 62 days after the close of the public hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the standards or guidelines contained in this Chapter.

- 1. In approving a Site Plan, with or without modifications, the Planning Board may impose conditions which it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Chapter. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

F. Expiration, Change of Use, Revocation, and Enforcement.

- 1. An approved Site Plan shall expire if:
 - a. The Site Plan use or uses cease for any reason for more than 12 consecutive months;

- b. The applicant fails to obtain the necessary building permit within 24 months of Site Plan approval; or
 - c. The applicant fails to comply with the conditions of the Site Plan.
2. A Site Plan shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Site Plan (as determined by the Code Enforcement Officer in issuing a Zoning Permit or Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Site Plan shall require the granting of a new Site Plan or an amendment.
 3. A Site Plan approval may be revoked by the Code Enforcement Officer if the applicant or the applicant's successor or assign violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.
 4. Any violation of the conditions of a Site Plan shall be deemed a violation of this local law, and shall be subject to enforcement action as provided herein.

G. **Findings Required.** In approving or disapproving Site Plans, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law and the policies and goals of the Master Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

H. **Filing of Decision.** The written decision of the Planning Board on an application for site plan review shall be filed within five days from the date the decision was rendered in the office of the Town Clerk, with the Code Enforcement Officer and a copy mailed to the applicant. The site plans shall be signed as approved by the Chairman of the Planning Board and filed and mailed together with the decision.

I. **Amendments.** The terms and conditions of any Site Plan approval may be amended in the same manner as required to approve a site plan, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a site plan amendment.

I. **ARTICLE 12 Zoning Board of Appeals**

Section 84 -56. General Rules.

A. **General Rules – Appeals, Variances.** Appeals from Orders, Decisions, Requirements, Interpretations, Determinations of Code Enforcement Officer: The Zoning Board of Appeals is vested with the authority to interpret the provisions of this Chapter on a written appeal from a written decision, determination, order, requirement or interpretation made by the Code Enforcement Officer. As such, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the written decision, determination, order, requirement or interpretation appealed from, and shall make such decision, determination, order, requirement, or interpretation as in its opinion ought to have been made in the matter by the Code Enforcement Officer. Such action by the Zoning Board of Appeals shall be referred to herein as an interpretation. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose written decision, determination, order, requirement, or interpretation the appeal is taken.

1. **Authorization for Zoning Board of Appeals to Grant Variances.** In accordance with Section 267-b of the Town Law of the State of New York, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Code Enforcement Officer, and after public notice and hearing, to vary or modify the application of any of the provisions of this Chapter relating to the use, construction, or alteration of structures or the use of land, so that the spirit of this law is observed, public safety and welfare secured, and substantial justice done. The Zoning Board of Appeals shall also have the power to vary or modify the dimensional or area requirements and restrictions of this Chapter upon referral from the Planning Board and without a written decision or determination made by the Code Enforcement officer in the case of a site plan, special use permit or subdivision application that the Planning Board has before it. The specific standards for the grant of use and area variances are set forth below. The definitions of use and area variances are set forth in Article 16 of this Chapter.
2. **Method of appeal.** Such appeal may be taken by any person aggrieved by the written decision, determination, order, requirement or interpretation made by the Code Enforcement Officer or by an officer, department, board or bureau of the Town. The determination of whether an applicant is aggrieved shall be

determined by the Zoning Board of Appeals, after hearing, as part of the appeal process set forth below.

a. **Use Variances.**

- i. The Zoning Board of Appeals, on appeal from a decision or determination of Code Enforcement Officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed by this Chapter.
- ii. No use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the land use area or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood;
 - (d) The alleged hardship has not been self-created.
- iii. The Zoning Board of Appeals, in granting use variances, shall grant the minimum variance that it deems 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.
- iv. The Zoning Board of Appeals shall consider any Agricultural Data Statement and whether the variance would have an undue adverse impact on the farm operations identified by the Agricultural Data Statement.

- v. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Chapter, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

b. **Area Variances.**

- i. The Zoning Board of Appeals shall have the power, upon an appeal from a determination of the Code Enforcement Officer, or upon the referral from the Planning Board with respect to a site plan, Special Use Permit or subdivision application it has before it, that the applicant's proposal can not be approved by reason of its failure to meet the dimensional or area regulations of this Chapter, to grant area variances from the area or dimensional requirements of this Chapter.
- ii. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making this determination the Board shall also consider:
 - (a) 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;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or land use area or overlay area; and

- (e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance.
- iii. The Zoning Board of Appeals, in granting of area variances, shall grant the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.
- iv. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Chapter, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

B. Procedure for Appeals- Application.

1. **Time of Appeal.** An appeal from an order, requirement, decision, interpretation or determination of the Code Enforcement Officer, shall be taken within 60 days after the filing in the Town Clerk's office of such order, requirement, decision, interpretation or determination of the Code Enforcement Officer. In the case of an application for an area variance from a site plan, Special Use Permit or subdivision application before the Planning Board, the appeal shall be taken within 60 days of the date that the Planning Board determined that an area variance is required.
2. **Placement of Agenda.** In order for an appeal to be placed on the Zoning Board of Appeal's meeting agenda, the required application materials shall be submitted to the Town Clerk at least 14 days prior to the date of the Zoning Board of Appeal's meeting.
3. **Application Requirements.** In order for an appeal, whether variance or interpretation, to be commenced, the applicant shall submit at least 1 original and 7 copies of the following together with whatever other information the Zoning Board of Appeals deems appropriate:

- a. A Town of Johnstown Zoning Board of Appeals application form.
 - b. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined below.
 - c. A narrative describing the existing and/or proposed use and operation together with the justification for the requested variance or interpretation.
 - d. A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Zoning Board of Appeals may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the appeal).
 - e. The application fee as established by the Town Board, and an escrow deposit for reimbursement of cost of Town consultants (if required) pursuant to section 2.9 of this Chapter.
 - f. The Zoning Board of Appeals may waive or add any requirements for an application submission if it deems appropriate in order to accomplish the purposes set forth herein.
4. **Forward Application.** Upon submission of an application for a variance or interpretation that appeals a decision, determination or order of the Code Enforcement Officer, the Code Enforcement Officer shall forward to the Zoning Board of Appeals a complete copy of the file on the property that is the subject of the appeal and all the papers constituting the record upon which the action appealed from was taken.

C. Procedures For Hearing and Review.

- 1. **Determining Completeness of Application.** At the first meeting at which an application is first presented as an agenda item, the Zoning Board of Appeals shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Zoning Board of Appeals shall notify the applicant in writing as to what aspects of the

application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Zoning Board of Appeals action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Zoning Board of Appeals that the application is complete.

2. **Planning Board Recommendation.** The Zoning Board of Appeals, in its discretion, may request the Planning Board to make a recommendation on such matter and such recommendation shall become part of the record but shall not be binding upon the Zoning Board of Appeals.
3. **Stay Upon Appeal.** An appeal shall stop all proceedings relating to the action appealed from, unless the Code Enforcement Officer certifies to the Zoning Board of Appeals 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 that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of competent jurisdiction. The application for a stay shall be on notice to the Code Enforcement Officer and with due cause shown.
4. **Compliance with State Environmental Quality Review Act.** The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act. The following actions of the Zoning Board of Appeals do not require review under the State Environmental Quality Review Act: Granting of individual setback and lot line variances; granting of an area variance(s) for a single-family and a two-family dwelling; and appeals involving only interpretations of the Zoning Law and not variances other than those area variances previously mentioned.
5. **Referral to County Planning Department.** In the case of a variance application and upon receipt of application materials it deems to be complete, the Zoning Board of Appeals shall refer to the County Planning Department any application for a variance affecting real property within 500 feet of the boundary of the Town of Johnstown, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or

State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended. No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Department's review. A majority-plus-one vote of the Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

6. Notice and Hearing on Appeal.

- a. **Schedule.** The Zoning Board of Appeals shall schedule and hold a public hearing on the appeal or other matter referred to it within 62 days of the date that the application for the appeal is considered complete by the Zoning Board of Appeals. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Zoning Board of Appeals.
- b. **Public Notice.** At least five days prior to the date of such hearing, the Zoning Board of Appeals shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to all adjoining property owners and to any other property owners in the affected area that the Zoning Board of Appeals may require to be notified.
- c. **§239-m Review.** In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Zoning Board of Appeals shall give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-m.
- d. **Expenses.** 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 Zoning Board of Appeals prior to the hearing of such appeal.

- e. **Testimony.** Upon the hearing, any party may appear in person, or by agent or attorney. The Zoning Board of Appeals may require testimony to be made under oath.
- f. **Time of Decision.** The Zoning Board of Appeals shall decide the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
- g. **Filing of Decision.** The decision or notes of the Zoning Board of Appeals on the appeal shall be filed in the Office of Town Clerk within ten (10) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. The minutes, as approved by the Zoning Board of Appeals, shall be filed in the Town Clerk's Office within ten (10) business days of the meeting at which the minutes were approved.
- h. **Rehearing.** A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

D. General Conduct of Business.

- 1. The Zoning Board of Appeals may employ such clerical or other staff or consulting assistance as may be necessary, provided the Town Board has approved the applicant and makes such appointment and it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.

2. The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this Chapter.
3. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. Meetings of the Zoning Board of Appeals shall be open to the public as required in Article Seven of the Public Officers Law of the State of New York.
4. The Zoning 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. The concurring vote of a majority of all members shall be necessary to take action on any matter before it.
5. Filing Requirements: Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the Town Clerk's Office within ten (10) business days and shall be a public record.

E. Expiration of Appeal Decision.

1. **Termination or Lapse of Variance.** Any variance that is not exercised within 1 year of the date it is issued shall lapse without further hearing by the Zoning Board of Appeals. Likewise, unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building or other permit or approval within 1 year of the date of such decision.
2. **Interpretations Binding.** Interpretations made by the Zoning Board of Appeals shall not lapse unless reconsidered by the Zoning Board of Appeals and shall be binding on all Boards and officials of the Town.

F. Authorization for Zoning Permit.

1. The grant of a variance shall serve as authorization for the Code Enforcement Officer to issue a zoning permit, provided that the project complies with the terms and conditions of the variance granted and all other applicable provisions of this Chapter.

ARTICLE 13 AMENDMENTS

Section 84 -57. General.

- A. **Initiation.** The Town Board, from time to time, may amend the provisions of this Chapter, including the official Zoning Map, by local law as provided in this Article upon its own motion or petition by one or more property owners, or by resolution of the Planning Board or Zoning Board of Appeals that requests a specific amendment of this Chapter. A property owner may apply for amendment to this Chapter by filing seven complete sets of an application with the Town Clerk. The application shall include a petition requesting the Town Board to amend a particular provision or provisions of this Chapter and/or the Zoning Map, a description of requested amendment, identification and description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and the applicable filing fee. In the case of a requested amendment that does not apply to an amendment of the Zoning Map or otherwise affecting specific properties, no properties need be identified as affected.
- B. **Referral by Planning Agencies.** As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the Town Board shall refer proposed amendments to the Town and County Planning Board or agencies as required by §84-56(C) and (D) of this Article and by the laws of New York State.
- C. **Referral to Planning Board.** The Town Board shall refer each requested amendment, no matter how initiated, to the Planning Board for a recommendation. No action shall be taken on the requested amendment referred to the Planning Board until its recommendation has been received by the Town Board, or 30 days have elapsed after such referral has been made, unless the Planning Board and Town Board agree to an extension beyond the 30-day requirement for the Planning Board's review and recommendation. The Town Board shall consider the Planning Board's recommendation but need not follow it.
- D. **Referral to County Planning Board.**
1. **§239-m** Any proposed amendment affecting real property within 500 feet of the boundary of the Town of Johnstown, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or

proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Fulton County Planning Board before final action is taken pursuant to section 239-m of the General Municipal Law.

2. **County Planning Review.** No action shall be taken on proposals referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed amendment, unless the County Planning Department and the Town Board agree to an extension beyond the 30-day requirement for the County Planning Department's review.
3. **Required Votes.** If the County Planning Board recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

E. **SEQRA Compliance.** A proposed amendment to this Chapter shall constitute a Type I action under SEQRA. Upon receipt of the petition and application materials that the Town Board deems complete (or upon the formal introduction of a proposed amendment made upon the Town Board's own initiative), the Town Board shall initiate the SEQRA process. The SEQRA process shall be initiated by either circulating the application and full Environmental Assessment Form ("EAF") to all involved agencies, if any, or by issuing its determination of significance within 20 days of its formal introduction of a proposed amendment made upon the Town Board's own initiative or within 20 days of its acceptance of a completed petition and application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Town Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making on any proposed amendment shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

F. **Public Hearing and Notice.** No proposed amendment shall become effective until after a public hearing thereon, at which the public shall have an opportunity to be

heard on the proposed amendment. The Town Board shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause public notice to be published, posted and circulated as set forth below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for the costs of publication and circulation of notice.

1. **Publication of Notice in Newspaper.** Notice of the time and place of the public hearing shall be published at least 10 days in advance of such hearing in the official newspaper. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
2. **Notice to Adjacent Municipalities.** Written notice of any proposed amendment affecting property lying within 500 feet of an adjacent town shall be served in person or by mail upon the Clerk of such municipality at least 10 days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.
3. **Notice to Adjacent Property Owners.** Where a proposed amendment involves a rezoning of a particular parcel or parcels of property, written notice of any proposed amendment affecting such property shall be mailed to the owners of parcels of property adjacent to the property that is subject of the proposed rezoning.
4. **Other Notices.** Written notice of any proposed amendment affecting property lying within 500 feet of the following shall be served personally or by mail to each person or entity listed below:
 - a. The property of a housing authority, erecting or owning a housing project authorized under the Public Housing Law, upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto.
 - b. The boundary of the county, upon the clerk of the Board of Supervisors or other person performing like duties.

- c. The boundary of a state park or parkway, upon the Regional State Park Commission having jurisdiction over such state park or parkway.

G. **Adoption.** The Town Board may adopt, by local law, amendments to this Chapter by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Department as noted below.

H. **Local Protest.** The favorable vote of three-fourths (i.e., four) of the Town Board members shall be required for passage of any amendment which is subject to a written protest signed and acknowledged by 20% or more of the owners of land in any of the following areas:

1. The land area included in the proposed amendment.
2. The land area immediately adjacent to the land area subject to the proposed amendment to be changed and extending 100 feet from the land area that is subject to the amendment.
3. The land area directly opposite the area proposed to be changed and extending 100 feet from the road frontage of such opposite land.

I. **Consideration of Town Master Plan.** The Town Board, in deliberating on whether to adopt a proposed amendment to this Chapter, including but not limited to a proposed rezoning of a parcel or parcels of property or any modification to the Zoning Map, shall consider the proposed amendment in relation to the Master Plan and shall adopt the proposed amendment only if it is consistent and in accordance with the Master Plan.

J. **Effective Date.** Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of the State of New York pursuant to the Municipal Home Rule Law of the State of New York.

K. **Right to Complete Project Inconsistent with Amendment.** Where a project for which a permit or approval has been lawfully issued would be rendered nonconforming by an amendment of this Chapter, such project shall have the right to be completed and to be awarded a certificate of compliance pursuant to the provisions in effect when the zoning permit or approval was issued only if, in the case of a

project primarily involving a building, the foundation has been completed prior to the effective date of the amendment, and, in the case of a project not primarily involving a building, a substantial amount of construction has been completed prior to the effective date of the amendment.

L. Intent to Supersede Certain Provisions of State Law. To the extent that any of the provisions of this Article conflict with any provision of the laws of New York State, the Town Board intends to, and does supersede such provisions of State law pursuant to the home rule powers provided by the Municipal Home Rule Law. Such provisions include but are not limited to the following:

1. The requirement that signatures of protest petitions be acknowledged as required by subsection H, “Local Protest,” above is a requirement not provided in Town Law § 265(1) and, to the extent that is inconsistent or in conflict with Town Law § 265(1), that section is hereby superseded.
2. The referral requirements provided in Subsection D above is a requirement not provided in Town Law §§ 264 and 265 and, to the extent that such referral is inconsistent or in conflict with Town Law §§ 264 and/or 265, those sections are hereby superseded.

ARTICLE 14 AIRPORT OBSTRUCTION

Section 84 -58. Purpose and Definitions.

A. **Purpose.** It is hereby found:

1. That an obstruction has the potential for endangering the lives and property of users of the Fulton County Airport and property of occupants of land in its vicinity.
2. That an obstruction may affect existing and future instrument approach minimums at Fulton County Airport.
3. That an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering aircraft, thus tending to destroy or impair the utility of Fulton County Airport and the public investment therein.
4. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Fulton County Airport.
5. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
6. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
7. That both the prevention of, creation or establishment of hazards to air navigation, and the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend funds and acquire land or interests in land.

B. **Definitions.** The following terms whenever used in this Article shall have the meanings as set forth below. Any such terms used in the singular shall be held to include the plural. Any such terms or any other terms not defined in this section used in the masculine shall be held to include the feminine.

AIRPORT - An area of land set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes and commonly known as Fulton County Airport.

AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet above mean sea level. This is 877 ft. above mean sea level for the Fulton County Airport.

AIRPORT OPERATOR - The County of Fulton whose responsibility it is to maintain and operate the Airport.

APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 57 of this Article. The perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, CONICAL ZONES - These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in Part 77 of the Federal Aviation Regulations as set forth in Section 57 of this Law.

CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT - For the purpose of determining the height limits in all zones set forth in this Law and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone. This is 1,027 feet above mean sea level for the Fulton County Airport.

NONCONFORMING USE - Any structure, object of natural growth, or use of land which is inconsistent with the provisions of this Law or amendment thereto existing on July 1, 1994.

NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 60 of this Law.

PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or government entity. It includes a trustee, receiver, assignee, or a similar representative of any of them.

PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard end of that runway, the primary surface extends 200 feet beyond each end of that runway, but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway and set forth in Article 14 of this Law. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE - An object, including a mobile object, constructed or installed by a person, including but without limitation, buildings, towers, smokestacks, earth formations, and overhead transmission lines.

TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontal for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TREE - Any object of natural growth.

UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with straighten instrument approach procedure.

Section 84 -59. Airport Zones.

- A. **Established.** In order to carry out the provisions of this Article, there are hereby created and established certain zones which include all of the land lying beneath the Approach Transitional, Horizontal and Conical surfaces as they apply to Fulton County Airport. Such zones are shown on the Official Zoning Map of the Town of Johnstown.
- B. An area located in more than 1 of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:
1. **Utility Runway Visual Approach Zone:** (Runway 28) - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 2. **Utility Runway Nonprecision Instrument:** (Runway 10) - The inner edge of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 3. **Transitional Zones:** The transitional zones are the areas beneath the transitional surfaces.
 4. **Horizontal Zone:** The horizontal zone is established by swinging arcs of 5,000 feet from the center of each end of the primary surface of the nonprecision instrument runway (Runway 10) and connecting the arcs by drawing lines tangent to those arcs. The horizontal zones do not include the approach and transitional zones.

5. **Conical Zone:** The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward and there from at 20:1 for a horizontal distance of 4,000 feet.

Section 84 -60. Airport Zone Height Limitations.

A. Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to exist in any zone created by this Article to or at a height in excess of the applicable height limits herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Utility Runway Visual and Nonprecision Approach Zone:** (Runway 10-28) - Slopes 20 feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Transitional Zones:** - Slopes 7 feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation of 1,027 above MSL.
3. **Horizontal Zone:** - Established at 150 feet above airport elevation or at 1,027.
4. **Conical Zone:** Slopes twenty (20) feet outward for each foot upward (20:1) for 4,000 feet beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
5. **Conflicting Standards.** Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

Section 84 -61. Use Restrictions.

A. **Height.** Except as otherwise provided in this Article, no structure or object of natural growth shall be erected, altered, or allowed to grow, or be maintained in any zone created by this Article to a height in excess of the applicable height limit herein established for such zone.

- B. **Interference.** Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such manner as to create electrical interference of navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 84 -62. Nonconforming Uses.

- A. **Regulations Not Retroactive:** - The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other changes to alteration of any structure or tree not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction of alteration of which was begun prior to the effective date of this Article, and is diligently prosecuted.
- B. **Marking and Lighting:** - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the County of Fulton to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport Operator.
- C. **Nonconforming Structures Abandoned or Destroyed:** - Whenever the Code Enforcement Officer determines that a nonconforming structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit for reconstruction shall be granted that would allow such structure to exceed the applicable height limits or otherwise deviate from these zoning regulations. A nonconforming structure that is abandoned or more than 80 percent deteriorated shall be torn down within one year of the Code Enforcement Officer's determination, unless a permit for reconstruction is applied for within said year. A nonconforming tree that is more than 80 percent deteriorated or decayed shall be removed by the landowner or the Airport Operator, either case, at the landowner's option and expense, within one month of written notice of such action.

Section 84 -63. Permits.

A. **Future Uses:** - Except as specifically provided in subsections 1 – 3, hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit has been duly granted pursuant to this Article. An application for a permit shall provide details sufficient to determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Subsection C, below

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topography features, would extend above the height limit prescribed for such transition zones.
4. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this Article.

B. **Existing Uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Article or any

amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

- C. **Variations:** - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Article, may apply to the Town Zoning Board of Appeals (ZBA), for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variations shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Z.B.A unless a copy of the application has been furnished to the Airport Owner for advise as to the aeronautical effects of the variance. If the Airport Owner does not respond to the application within fifteen (15) days after receipt, the ZBA may act on its own to grant or deny said application.
- D. **Obstruction Marking and Lighting:** - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by ZBA, this condition may be modified to require the owner to permit the Airport Owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

Section 84 -64. Enforcement.

It shall be the duty of the Town Code Enforcement Officer to administer and enforce the regulations prescribed herein.

ARTICLE 15 DEFINITIONS

The following terms whenever used in this Chapter shall have the meanings as set forth below. Any such terms used in the singular shall be held to include the plural. Any such terms or any other terms not defined in this section used in the masculine shall be held to include the feminine. In this Chapter, any references to a governmental agency, official, or entity, shall also include any subsequent name designation, successors in interest or in jurisdiction. Terms used in this Chapter and not herein defined shall be interpreted to have their commonly understood meaning.

Accessory Dwelling Unit shall mean a residential dwelling unit, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. An accessory dwelling unit shall have one or more rooms with provisions for living, cooking, sanitary and sleeping facilities. A travel trailer or manufactured home shall not be considered an accessory dwelling. Any dwelling unit having an attached accessory dwelling and served by separate utility meters from the primary dwelling unit shall be considered by the Town to be a duplex.

Accessory Structure shall mean a structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

Accessory Use shall mean a use customarily incidental to the principal use or occupancy of a building. In a multiple family dwelling, such accessory uses may include, among others, the following: offices for the building management; dining rooms, banquet rooms, public kitchens, and ballrooms; recreation and play rooms; laundries for the use of tenants and occupants, and in connection with the management and operation of the multiple dwelling; maintenance and work shops, storage rooms for linen, bedding, furniture, supplies and tenants' equipment and effects; rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspaper, candy and cigar stands; and garages within the multiple dwellings or on the premises thereof used primarily for the storage of passenger-type motor vehicles.

Agricultural Distillery shall mean and include any premises located on a farm where liquor is manufactured primarily from farm and food products and sold. A not insignificant portion of the production shall consist of agricultural products produced on

the farm. Such use shall conform with applicable New York State rules, regulations, and licensing requirements.

Agricultural Processing Plant shall mean a facility used for the cooking, dehydrating, refining, bottling, canning, or other treatment of agricultural products, which may change the naturally grown product for consumer use. May include warehousing, cold storage and packaging as secondary uses.

Agricultural Produce Stand shall mean a detached accessory structure or portable or seasonally temporary stand, typically open-air, to sell seasonal agricultural fruits, vegetables, and to a lesser degree minimally processed agricultural goods. Sales floor area, storage areas, and offices shall comprise together no more than 350 square feet. Minimally processed agricultural goods include but are not limited to items such as jams, jellies, pickles, sauces, relishes, cheese, dairy, yogurts, and baked goods. Floor area dedicated to sales for non-agricultural goods shall not exceed 20 percent of the sales floor area.

Agricultural Products shall mean any agricultural commodity including animals, plants, fungi, foods, fiber, and water resources whether raw or processed for human or livestock consumption.

Agricultural Services shall mean a use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes sales incidental to the primary use such as food sales and farm machinery repair services.

Agricultural Waste shall mean waste and by-products arising on farms consisting of organic matter such as manure, slurry, silage effluent and crop residues and non-organic materials.

Alley shall mean a public way, which affords generally a secondary means of vehicular access to abutting property.

Animal Pound or Shelter shall mean any structure or premises in which animals are kept, boarded, bred or trained for commercial gain or pursuant to the mission of “caring for domestic animals not having any apparent ownership or displaced by some means.”

Animal Husbandry shall mean a branch of agriculture for the raising or nurturing and management of animals including breeding, pasturing and ranching.

Apartment shall mean a building or portion thereof, designed for residential occupancy by three or more families living independently of each other.

Applicant shall mean any person seeking from the Town an official review, approval, permit, or other authorization to conduct activities pursuant to this Chapter.

Aquaculture shall mean the production of aquatic plants or animals under controlled conditions for harvesting and processing into food for human consumption.

Area, Building shall mean the total area measured on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

Autobody and Paint Shop shall mean a facility which provides repair services for collision and other repairs to the auto body including body frame straightening, replacement of damaged parts, undercoating, and painting. Such repairs does not include mechanical engine or power train repair.

Auto dealership shall mean any establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, or motorcycles or other similar motorized transportation vehicles. An automobile dealership may maintain an inventory of the vehicles for sale or lease on-site or at a nearby location and may provide on-site facilities for the repair and servicing of the vehicles sold or leased by the dealership.

Bakery, Retail shall mean an establishment primarily engaged in the retail sale of baked products for consumption on and off site. The products may be prepared either on or off site. Such use may include incidental food service.

Bakery, Wholesale shall mean a bakery primarily engaged in the production and/or wholesaling of baked goods, with or without over-the-counter retail dispensing of baked goods.

Bank, Savings, or Loan Institution shall mean a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Bed and Breakfast shall mean any establishment, typically in the style of a single-family dwelling or homestead, that provides overnight, temporary lodging and breakfast for guests. Such establishments shall not have more than 8 lodging rooms for rental and shall be available for rental no less than 30 nights in 12 month period. Meals other than breakfast shall not be provided as a service with this use.

Billboard; see “Sign, Off-Premise”

Biofuel generation shall mean the production or harvesting of agricultural raw materials and other biomass for eventual conversion into a fuel commodity or for use in an onsite co-generation facility. This shall exclude wood harvesting for personal heating uses unrelated to primary commercial or agricultural uses onsite.

Boarding House shall mean a dwelling or building other than a hotel or motel where more than two but less than fifteen rooms are used, rented, or hired out for sleeping purposes, typically on a long-term basis, and where meals may be provided by the owner or operator to such guests.

Building shall mean a structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

Building Coverage shall mean the percentage of the lot area covered by the building area. See "Area, Building."

Building Height shall refer to the vertical distance measured from the average level of the finished ground surface across the front of the building to the highest point of the roof for flat roofs, to the neckline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Line shall refer to the line or setback established by law, ordinance or regulation, beyond which no part of a building, other than parts expressly permitted, shall extend.

Business Service shall mean establishments primarily engaged in rendering services to business establishments on a fee or contract basis; such as advertising and mailing, building

maintenance, employment service, management and consulting services, protective services, equipment and rental and leasing, commercial research development and testing, photo finishing and personal supply services.

Car Wash shall mean mechanical facilities for the washing, waxing, and detailing of private automobiles, light trucks and vans, but not commercial fleets, as an accessory use to an automobile service station.

Church shall mean a building or structure or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. Church shall be synonymous with Place of Worship.

Code Enforcement Officer shall refer to the officer charged with enforcement of building or fire codes. It is also referred to by its acronym, CEO.

Co-Generation shall mean a privately owned non-utility installation that generates or harnesses heat, electricity, or gas from waste or by-products generated from principal agricultural uses on site and which energy is used to operate all or a portion of principal onsite uses. Such facility shall operate as an accessory use for purposes of this chapter. Unused electricity generated through co-generation on the site may be supplied consistent with applicable law to an offsite electric grid.

Commercial Extraction shall mean the extraction of earth materials for commercial purposes such as gravel pits, rock quarrying, subsoil removal, and/or removal of such materials for sale, (other than what might be required for the erection of buildings or related to an allowed agricultural use).

Commercial Fuel Sales and Storage shall mean an establishment, which provides the sales, storage, and distribution of liquid or gas fuels as its principal service. Onsite storage of fuel may mean either above or below ground. The term shall not be construed to mean a gasoline service station as otherwise defined herein. The sale of portable fuel tanks or the storage of fuel for commercial or institutional vehicle fleets shall not cause such business to be classified as a commercial fuel sales and storage facility, if only such fuel is sold or stored in a manner that is clearly incidental to the primary onsite business.

Common Areas shall mean areas of property that are used by all owners or tenants.

Community Residence shall mean any residence, facility, place or building which is maintained and operated to provide non-medical residential care, day care for children, adults or children and adults, including but not limited to the physically handicapped, mentally impaired, or incompetent persons, developmentally disabled, mentally disordered children and adults, court wards and dependents, neglected or emotionally disturbed children, alcohol or drug-addicted children or adults, battered adults or children, and aged persons.

Condominium shall mean a system of ownership of individual units in a multiunit structure, combined with joint ownership of commonly used property such as sidewalks, hallways, stairs, etc. For the purposes of Planned Unit Developments, each dwelling unit shall be counted separately.

Conservation Easement shall mean an interest in real property, created pursuant to the conditions of this Article.

Conservation Easement, Open Space (OSCE) shall mean a conservation easement created and subject to the conditions of this Conservation Subdivision Article of this Chapter and which is limited to all lands designated by the applicant as protected open space.

Convalescent Home shall refer to the meaning of Nursing Home.

Convenience store shall mean a small retail establishment containing less than 5,000 sq. ft. of gross floor area and that is usually located within or associated with another use, that offers for sale convenience goods, such as prepackaged food items, tobacco, periodical, and a limited selection of customary household goods. Such stores are designed to attract and depend upon a large volume of stop and go traffic.

Cooperative shall mean a multiple-family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Day Care Center shall mean a center for children as defined in 18 NYCRR 418.1(b)(1).

Diameter at Breast Height shall refer to the forestry practice of measuring tree trunk diameter at a point on the tree 4.5 feet above the ground as measured from the downhill point of the trunk.

Detached Dwelling shall mean a dwelling unit separated from another dwelling unit or other use.

Developer shall mean any individual, firm, association syndicate, co-partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to bring about development for the individual or another.

Drive-In Service Establishment shall mean an establishment that dispenses products or services to patrons who remain in vehicles.

Duplex shall mean a building designed as a single structure, containing two separate living units, each of which is designed for occupancy as a separate permanent residence for one family.

Dwelling Unit shall mean one or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

Educational Use shall mean an institution or enterprise dedicated primarily to education and which does not meet the definition of school, herein. Educational use may refer to, among others, business education program, evening schools, trade schools, universities, colleges, and art schools.

Family shall mean 1 or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

Family day care shall mean a residence in which day care is provided on a regular basis for more than three hours per day per child for three to six children, with or without compensation. This does not include “family care,” “nursery school,” or “day camp” as defined by the New York State Sanitary Code, a school program operated for the primary purpose of religious education, or a facility operated by a public school district.

Farm shall mean a parcel or tract of land which is used for the production or raising of agricultural products, inclusive of crops, livestock, and livestock products as defined in Article 25AA of the New York State Agriculture and Markets Law, except where such

production is an accessory and noncommercial garden to a principle residential use on the same lot.

Farm winery shall mean a wine production facility located on a farm which also produces grapes for such wine production. A not insignificant portion of the production shall consist of agricultural products produced onsite. Such use shall conform with applicable New York State rules, regulations, and licensing requirements .

Fence shall mean a barrier, stockade or other structure constructed of wood, brick, wire or other material intended for use as a boundary or means of protection, concealment, or confinement.

Fully shielded light fixtures shall mean light fixtures constructed so that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal as measured at the base of the shielding elements.

Funeral Home shall mean a building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home as defined for purposes of this code, includes a funeral chapel.

Garage, Commercial Parking shall mean a building or portion thereof used primarily for the parking and storage of vehicles and made available for use by the general public and where a fee may or may not be charged for the temporary parking of vehicles. Garages having fewer than 25 parking spots and that are restricted to use solely for its owner or its lessee and their employees and customers and by that reason is made unavailable to the general public, shall be considered an accessory use.

Garage, Service and Repair shall mean an enclosed building for indoor repair of motor vehicles, including painting and sale of parts and accessories. A “junkyard” or “auto salvage yard” is not be construed as a garage.

Gasoline Service Station shall mean any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oils or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof.

Golf Course or Country Club shall mean a tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses. A golf course may also include a practice green and driving ranges, but shall not include a miniature golf course or other similar enterprise.

Golf Course, Miniature shall mean a theme-oriented recreational facility, typically comprised of 9 or 18 putting greens, each with a “cup” or “hole,” which may include obstacles or hazards to make the game more difficult.

Grade, Finished shall mean the natural surface of the ground, or surface or ground after completion of any change in contour.

Hangar shall mean a building in which aircraft are stored, serviced or repaired.

Hedge shall mean a row of shrubs, bushes or trees that may be used as a border around property boundaries.

Home Occupation shall mean a business conducted as an accessory use which is clearly incidental to or secondary to the residential use of the dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling and in which not more than 2 persons not residing in such dwelling unit may be employed on site. Home occupations are either “off site” or “on site.”

- a. Home Occupation, Off Site Service – A home occupation in which the owner meets customers off premises or electronically and thus does not generate additional traffic
- b. Home Occupation, On Site Service – A home occupation in which the owner meets customers on premises and thus the business generates additional traffic.

Homeowners Association shall mean an entity duly created pursuant to New York State Not for Profit Corporation Law and established for the purpose of maintaining lands and facilities held in common ownership by the association.

Hospital shall mean an institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, clinics, outpatient facilities, or training facilities. The term shall be deemed to include sanatorium.

Hotel shall mean an establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk services. Related accessory uses may include conference and meeting rooms, restaurants, bars, and recreational facilities.

Household Appliance Sales and Service shall mean any establishment that sells or repairs major household appliances, typically non-portable, such as washers, dryers, refrigerators, freezers, and stoves.

Industrial Use shall mean a use whereby the mechanical or chemical transformations of materials or substances into new products, including the assembling, fabrication, finishing, manufacturing, packaging, blending, or processing of component parts, materials, substances, or a combination thereof, including but not limited to oils, plastics, resins, etc. An industrial use that sufficiently meets the terms of a permitted use more specifically defined than Industrial Use, such as Agricultural Processing, shall be deemed said specific use.

Junk. See §84-20B *Property Maintenance* under Article 6.

Junkyard shall mean a lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded materials or the for the collecting, dismantling, storage and salvaging of machinery or vehicles and for the sale of parts thereof. The outdoor storage or deposit of any of the following, whether in connection with another business or not shall be deemed a junk yard:

- a. 3 or more junk motor vehicles
- b. 2 or more junk mobile homes
- c. 4 or more junk appliances

- d. 5 or more pieces of junk furniture
- e. Any combination of the above that totals 5 items or more.

Landowner shall mean any individual, firm, partnership, corporation, trust or other legal entity owning land. Landowner is sometimes referred to as Owner of Record.

Laundromat shall mean a business that provides either washing, drying, ironing, or any combination of such services for hire and use by customers on the premises.

Livery or Taxi Service shall mean a service that offers by reservation or hailing transportation in passenger automobiles, limousines, and vans to persons, including those who are handicapped. The business may include facilities for servicing, repairing, and fueling the taxicabs or vans.

Live stock auction shall mean an enclosure or structure designed and used for holding livestock for sale or transfer by auction, consignment, or other similar means.

Lot shall refer to a parcel of land considered as a unit, occupied or capable of being occupied by one (1) building and accessory buildings or uses, or by a group of buildings united by a common use or interest and including such open spaces as are required by this chapter and having its principal frontage on a public street or an officially approved place.

Lot Area shall mean the total area included within lot lines, except that no part of the area within a public right-of-way may be included in the computation of "lot area."

Lot, Corner shall mean a lot located at the intersection of and fronting on two (2) or more intersecting streets and having an interior angle at the corner of intersection of less than one hundred thirty-five degrees (135).

Lot Depth shall mean the distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, Interior shall mean a lot other than a corner lot.

Lot Line shall mean a boundary "of a Lot."

Lot of Record shall mean a lot or parcel that has been duly recorded and legally filed with the County Clerks Office.

Lot, Through shall mean a lot having frontage on two (2) approximately parallel or converging streets.

Lot Width shall mean the distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district. For purposes of new building construction and in the case the lot width as measured above is substandard and in the case all other dimensional requirements of the lot as prescribed by this Chapter are satisfied, the lot width shall be measured at a length defined as parallel to and 15 feet from the face of the proposed structure as it is oriented to the front lot line.

Manufactured Home shall mean a structure (formerly referred to as a mobile home or trailer) transportable in one or more sections, which, in traveling mode, is eight feet or more in width or 40 feet or more in length or when erected on site is 320 or more square feet, and which is built in compliance with federal regulations or built prior to June 15, 1976, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, ventilating and electrical systems contained therein. For the purposes of this Chapter, the term “manufactured home” does not include a modular home. For the purposes of this Chapter, Manufactured Homes are also more specifically referred to as Singlewide and Doublewide Manufactured Homes.

Mixed Use shall mean a combination of two or more land uses on a tract of land or within a building or structure.

Modular Home shall mean a dwelling unit (as defined in this Chapter) constructed on site in accordance with New York State Building Code and municipal codes and bearing insignia of approval by the Secretary of State of New York State which is composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.

Motel shall mean a multiple unit dwelling, intended primarily for motorists, not over two stories in height, in which the exit from each dwelling unit or sleeping room is directly to the exterior. The term includes, but is not limited to, the terms motor court, motor hotel, tourist court.

Multifamily Dwelling shall mean a dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances and including apartments, group homes, row houses, dormitory, club, or fraternity or sorority house

Museum shall mean an institution, typically not for profit, which operates a repository and display for collections of any natural, scientific, or cultural objects, and which objects are arranged for public observation and appreciation. Admission may or may not require a fee. Accessory uses may include demonstration studios, an indoor theater or stage, a gift store, and café or restaurant. Any gift store or café shall be designed and constructed as a clearly incidental use to the premise.

Net Floor Area shall mean the total floor area within the perimeter of the confining walls of a building and minus the area derived from interior walls, hallways, stairs, closets, storage, and accessory use areas used primarily for storage or maintenance of the facility or building. Net floor area is used to calculate the figures for parking requirements.

Nonconforming Use shall refer to a use , building, structure, or lot of record which at the time of enactment of this chapter or any amendment thereto does not conform to the regulation of the district in which said use is located.

Nursing or Convalescent Home shall mean a home or facility licensed by the State of New York for the aged or chronically or incurably ill person in which three or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Open Space, Private shall mean a usable open space adjoining and directly accessible to a dwelling unit or principal building on an improved lot, reserved for the exclusive use of residents of the dwelling unit and their guests. Unimproved and vacant lots under private ownership may also qualify as private open space for use by the owners and their guests.

Outdoor Performance Venue shall mean any location used for dramatic, operatic or other performance, for admission to which entrance money may or may not be required. For the purposes of this Chapter, an Outdoor Performance Venue may include a covered stage and/or seating enclosed on three sides in addition to uncovered seating, but shall not include drive-in movie theaters.

Park or Playground shall mean a non-commercial, publicly accessible facility designed for passive use, informal gatherings, and leisure designed to serve the recreational needs of the residents of the community. If a demonstrated need exists for site improvements or facilities, then such features will be limited to basic services like landscaping, parking, signage, lighting, sewerage, water, customary playground equipment, courses, trails, fields, and courts for sports, picnic tables, and trash bins.

Parking Lot shall mean an off-street surface, and generally ground level open area, for the temporary parking of motor vehicles. A for-fee parking lot shall be deemed a commercial parking garage, if such parking facility otherwise satisfies the terms of the definition for a commercial parking garage. Parking lots or areas for private residences and other non-commercial operations shall be deemed a non-commercial parking lot or parking garage.

Parking Space shall mean an off-street space available for the parking of one (1) motor vehicle and having an area of at least ten (10) feet in width by eighteen (18) feet in length. The required parking spaces for handicapped access shall be thirteen (13) feet in width by twenty (20) feet in length.

Penthouse shall mean an enclosed structure above the roof of a building, other than a roof structure or bulkhead, and which is used to shelter mechanical equipment or vertical shaft openings in the roof.

Permitted Construction Activities shall mean ground-disturbing activities, construction, and construction related activities that are conducted pursuant to a permit that authorizes lawful commencement of any such activities and that was duly issued by a jurisdictional governmental agency or authority. Construction includes the construction or erection of a building or structure, as well as any additions or modifications thereto.

Person shall mean an individual, association, corporation, firm, partnership, or any other legal entity

Planned Unit Development shall mean an area of minimum contiguous size to be planned and developed as a single entity.

Plat shall mean a document prepared by a registered surveyor or engineer that delineates property lines and shows monuments and other landmarks for the purposes of identifying property.

Plant Nursery shall mean an operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

Printing or Publishing establishments shall mean a commercial printing operations involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

Private Club or Lodge shall mean a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

Professional Office Building shall mean a building designed for office use to conduct business, professional, or service activities, and that may include ancillary services for office workers such as an eatery, coffee shop, and newspaper or candy stand. The following examples are illustrative of professional services: certified public accounting, public accounting, consulting, engineering, architecture, planning, design professions, education, management, medical, legal counsel, therapy, counseling, dentistry, psychological services, and insurance.

Public Recreational Open Space, Non-Commercial shall mean a privately owned parcel or parcels open to the general public for outdoor recreational activities. Permissible recreational activities shall be non-motorized, have limited potential for nuisance to adjacent property owners, require no or few improvements to the site, and are generally passive in character. Examples of such activities include but are not limited to hiking, bicycling, birding, fishing, nature appreciation, cross-country skiing, picnicking, and canoeing or kayaking.

Public Way shall mean any street, alley or other similar parcel of land essentially open to the outside air, deeded, dedicated or otherwise permanently appropriated to the public for public use and having a clear width and height of not less than 10 feet.

Quarry, Sandpit, Gravel Pit, and Topsoil Stripping shall mean a lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale as an

industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

Recreation and Amusement, Commercial shall mean a commercial establishment where facilities, equipment, rides, or courses are provided primarily as attractions for the amusement and recreation of visitors. Such attractions may be temporary or permanent. Examples of attractions include, among others, driving ranges apart from a golf course, miniature golf, batting cages, motorized carts and motorcycle tracts, all-terrain vehicle courses, water slides, amusement parks, downslope skiing, sports arenas, rinks, firing ranges, paint-ball courses, and circuses. Gift shops, equipment supply, and eateries may be included as accessory uses.

Restaurant, Fast Food shall mean an establishment that serves food and beverage to its customers and which exhibits the following characteristics:

- a. Customers wait on themselves, usually at a counter or pickup window.
- b. The menu is posted rather than printed.
- c. Food is served in disposal containers and to the extent that if tableware is necessary, it too is disposable.
- d. Food can be taken out of the building.
- e. Drive-thru service may be provide.

Restaurant shall mean any establishment for the serving of food and beverage not included within the definition of fast-food restaurants.

Retail Center, see “Shopping Center”

Retail Store shall mean an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Maximum floor areas by district are established in the Use Tables contained in the appendices for this Chapter.

Riding Stable and Academies shall mean a school for instruction in equestrianism or for hiring of horses for pleasure riding.

Roof shall mean a horizontal or inclined structural element of a building, which serves as the top closure.

Sales Flag shall mean any fabric, banner, or bunting exhibiting distinctive colors, patterns, or symbols used to signify or draw attention to a commercial or sales activity.

Sawmill shall mean a facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, planed, or otherwise processed to produce wood products, not including the processing of timber for private, on-premise, non-commercial activities.

School, Public or Private shall mean an institution or enterprise certified or accredited by the State of New York to teach children.

Service and Repair Garage shall mean an enclosed building for indoor repair of motor vehicles, including painting and sale of parts and accessories. A “junkyard” or “auto salvage yard” is not be construed as a garage.

Shopping Center shall mean two or more retail stores planned, constructed and managed as a unified entity with customer and employee parking provided on site, provision for goods deliveries separated from customer access, aesthetic considerations, and protection from the elements. Shopping centers shall be further defined as follows:

- 1.) **Regional Shopping Center** shall mean a shopping center that contains a wide ranges of retail and service establishments that occupies fifty to one-hundred acres of land and at least one or more anchor stores and contains over 400,000 square feet of gross leasable space.
- 2.) **Community Shopping Center** shall mean a shopping center that features a Junior Department Store with approximately 150,000 square feet of gross leasable area.
- 3.) **Neighborhood Shopping Center** shall mean a shopping center that generally sells goods necessary to meet daily needs, occupies up to 10 acres, has up to 100,000 square feet of gross, leasable area and may draw clientele from within a 5 minute radius of the center.
- 4.) **Mini Mall** shall mean a shopping center having between 5,000 and 50,000 square feet on a site of eight to fifteen acres where tenants are located on both sides of the

covered walkway with direct pedestrian access to all establishments from the walkway.

Sign shall mean any permanent, temporary, or portable device affixed to or painted or represented directly or indirectly upon a building, structure, inflatable device, or land and which directs attention to an object, product, place, activity, event, person, institution, organization or business. Each display surface shall be considered a sign.

Sign, Changeable Copy shall mean any sign designed to allow the changing of copy through manual, mechanical, or electrical means.

Sign, Construction shall mean a sign that provides information about future development or current construction on a site and parties involved in the project.

Sign Copy shall mean any graphic, design, word, letter, numeral, symbol, insignia, model or combination thereof which is considered integral to the message of the sign of which the sign copy constitutes.

Sign, Directional shall mean any permanently constructed sign that includes information assisting the flow of pedestrian or vehicular traffic, such as enter, exit, and one-way. Official traffic or public safety signs shall not be considered Directional Signs subject to this Chapter.

Signs, Freestanding shall mean any non-movable sign not attached to a building. A freestanding sign is sometimes referred to as a pylon sign or pole sign.

Sign, Off-Premise shall mean any permanent structure, attached or detached, for the display of signage located off premise from the location of advertised services or the sign sponsor. Billboard signs are off-premise signs, and are sometimes referred to as outdoor advertising, and the sign itself typically consists of pre-printed panels of 'posters' or 'bulletins.'

Sign, Portable shall mean a sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels. Sandwich boards shall not be deemed a portable sign.

Sign, Projecting shall mean a sign attached to and projecting outward from a building face or wall, generally at a right angle to the face or wall. Projecting signs include signs that are entirely in the right-of-way, partially in the right-of-way, or fully on private property.

Sign, Sandwich Board shall mean a sign constructed in such a manner as to form an “A” or tent like shape, hinged or not hinged at the top, and each sign face held at an appropriate distance by a supporting member.

Sign, Temporary shall mean any outdoor sign that is not permanently affixed or constructed, and where the thing signified is customarily effective or active for a limited time, is seasonal, or is likewise episodic. These typically refer to events such as, but not limited to, sales, openings, closings, construction, residential sales and rentals, product promotions, notices, elections, seasonal harvests, and community events.

Sign, Wall shall mean a sign mounted flat against and projecting less than 12 inches from a building or structure with the exposed face of the sign in a plane parallel to the face of the wall. This shall not include window signs mounted interior to the window.

Sign, Window shall mean a sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it is visible from the exterior of the building through a window.

Single Family Dwelling shall mean a detached building constructed on a permanent foundation, designed for long-term human habitation exclusively by one family, having complete living facilities and constituting one dwelling unit. For the purposes of this Chapter, a single-family dwelling shall also mean conventionally built homes, doublewide manufactured homes and modular homes, but shall not mean singlewide manufactured homes.

Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 100kw and which is intended primarily to reduce on-site consumption of utility power.

Stable shall mean a building where horses and other such similar animals are raised or maintained.

Storage, Commercial shall mean any establishment that provides facilities available to the public for a fee, with or without security or climate control, for short- or long-term storage, self-service or otherwise.

Story shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

Street shall mean a thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

Structural Alterations shall mean any change in the supporting members of a building.

Structure shall mean an assembly of materials, forming a construction framed of component structural parts for occupancy or use, including buildings.

Theater shall mean a fully enclosed structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money may or may not be required.

Third Party Enforcement Right shall mean a right granted in a conservation easement which empowers a public body or a not-for-profit conservation organization to enforce any of the terms of the easement.

Travel Trailer shall mean a mobile unit designed and built for camping, recreational travel or vacation use which is equipped to provide temporary shelter. The term includes camping trailers, pickup coaches, recreational vehicles (RVs), and similar units.

Travel Trailer Park shall mean a commercial use providing space and facilities for travel trailers and recreational vehicles (RVs) for recreational uses or transient lodging.

Trailer Camp shall mean an area occupied or designed for occupancy by two or more travel trailers, camp trailers, pickup coaches and similar units.

Tree Removal shall refer to the intentional physical removal or death of a tree greater than 6 inches DBH (diameter at breast height). In the case a limb is located at the measuring height, then measurement shall be taken at a point just beneath said limb.

Utility Structure or Use, Small shall mean utility services that are necessary to support development or subareas of the Town and within the immediate vicinity and that involve

only minor structures. This includes sewer collectors and pump stations, transformers, relay and booster devices, wells and water facilities, water lines, storm drainage facilities, switching boxes, and other similar use utility structures.

Variance, Area shall mean a lawful modification of bulk or area standards not in conformance with the requirements established in this Chapter.

Variance, Use shall mean the lawful approval to commence uses otherwise not allowed in a particular zoning district.

Veterinary Hospital shall mean a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Wall shall mean a barrier, stockade or other structure constructed of wood, brick, wire or other material intended for the use as a boundary or means of protection or confinement.

Warehousing shall mean uses and facilities characterized by either extensive warehousing of goods or merchandise and which is characterized by frequent heavy trucking activity but not involved in manufacturing, production, or agricultural activities.

Wholesale Distribution shall mean a place of business primarily engaged in selling merchandise, distributing merchandise, or both to (1) retailers, (2) industrial, commercial institution, or professional business users or (3) other wholesalers, or acting as agents or brokers of merchandise to such individuals or companies.

Wood Boiler, Outdoor shall mean any equipment or apparatus which is designated to be installed outdoors and which through the combustion of wood produces heat or electricity for inside use onsite.

Yard shall mean an at grade open space between a building and the lot lines

Yard, Front shall mean an open, unoccupied space on the same lot with the building, between the front line of the building and the street or highway line and extending the full width of the lot. (Front property line).

Yard, Rear shall mean an open, unoccupied space on the same lot with the building, situated between the building and the rear lot line and extending the full width of the lot.

Yard, Required shall mean a yard of specified dimensions or standards as required by this Chapter.

Yard, Side shall mean an open, unoccupied space on the same lot with the building, situated between the building and the side lot line and extending from the front yard to the rear yard.

Zoning District shall mean a specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

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Appendix A: Allowable Use Tables

Appendix A - Use Table

Key Existing/Proposed P: Permitted Use, SPR: Requires Site Plan Review, SUP: Requires Special Use Permit Italicized uses are recommended for removal or re-definition	Zoning District								
	R-1	R-2	RPO	R-A	AUZ	C-1	C-2	M-1	CID
Land Use									
Residential									
Single-Family Detached Dwelling	P	P	P	P	P	--	--	--	--
Accessory Dwelling- New Construction	SRP	SPR	SPR	SPR	SPR	--	--	--	--
Accessory Dwelling- Conversion	SUP	SPR	SPR	SPR	SPR	--	--	--	--
Two-Family Dwelling, Duplex	--	P	P	P	--	--	--	--	--
Community Residence	--	SUP	SUP	SUP	--	--	--	--	--
Singlewide Manufactured Homes on Individual Lots	--	SPR	--	SPR	SPR	--	--	--	--
Mobile Home Parks	--	--	SUP	SUP	--	--	--	--	--
Multifamily- Apartment, Condos, Co-op	--	--	SPR	SPR	--	--	SPR	--	--
Nursing/Convalescent Home	--	SPR	SPR	SPR	--	--	--	--	--
Boarding/Rooming House	--	--	SUP	--	--	--	SPR	--	--
<i>Two-Unit Townhouses (SEE MULTIFAMILY)</i>	--	--	--	--	--	--	--	--	--
<i>Condominium/Co-Ops (SEE MULTIFAMILY)</i>	--	--	--	--	--	--	--	--	--
<i>Garden Apartment (SEE MULTIFAMILY)</i>	--	--	--	--	--	--	--	--	--
Transient									
Hotel/Motel	--	--	SUP	SUP	--	SUP	SUP	SUP	--
Bed-and-Breakfast	SUP	SUP	SUP	SPR	SPR	--	--	--	--
General									
Accessory Uses as they relate to permitted uses when on the same lot	P	P	P	P	P	P	P	P	--
Cemetery	--	SPR	SPR	SPR	--	--	SPR	--	--
Church/Other Place of Worship	--	SPR	SPR	SPR	--	--	SPR	--	--
Federal, State, Municipal Public Buildings, Structure or Use	--	--	SPR	SPR	--	SPR	SPR	--	--
Fire Station	SUP	SPR	SPR	SPR	SPR	--	SPR	SUP	SPR
Park / Playground	SPR	SPR	SPR	SPR	--	SPR	SPR	SPR*****	SPR*****
Public Recreational Open Space, Non-Commercial	SPR	SPR	P	P	SPR	SPR	SPR	SPR	SPR
Open Space, Private	P	P	P	P	P	P	P	P	P
Small Wind Energy System	SUP	SUP	SUP	SUP	SUP	--	--	SUP	SUP
School, Public/Private	--	SPR	SPR	SPR	--	--	SPR	--	--
Mixed-Use	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1

Town of Johnstown, NY
Chapter 84 Zoning
Allowable Use Table

Key Existing/Proposed P: Permitted Use, SPR: Requires Site Plan Review, SUP: Requires Special Use Permit Italicized uses are recommended for removal or re-definition	Zoning District									
	Land Use	R-1	R-2	RPO	R-A	AUZ	C-1	C-2	M-1	CID
Commercial Retail and Eateries										
Drive-In Service Establishment	--	--	--	SUP	--	SUP	SUP	--	--	
Restaurant, Any Type	--	--	--	SPR	SPR	SPR	SPR	SUP	--	
Retail Center / Shopping Center	--	--	SPR*	SPR*	--	SPR***	SPR****	SUP	--	
Bakery, Retail			SPR*	SPR*	SPR*	SPR	SPR	SUP	--	
Bakery, Wholesale			SPR*	SPR*	SPR*	SPR	SPR	SUP	--	
Retail Store	--	--	SPR*	SPR*	--	SPR**	SPR**	SUP	--	
Commercial Auto Services										
Auto Body and Paint Shop	--	--	--	SUP	--	SUP	--	SUP	--	
Auto Service Repair Garage	--	--	--	SUP	SUP	SUP	--	SUP	--	
Auto Dealership	--	--	--	--	--	SUP	SUP	--	--	
Car Wash	--	--	--	SUP	--	SUP	SUP	SUP	--	
Gasoline Service Station	--	--	--	SUP	--	SUP	SUP	SUP	--	
Garage, Commercial Parking	--	--	SPR	SPR	--	SPR	SPR	--	--	
Livery	--	--	--	SUP	--	SUP	SUP	SUP	--	
Commercial										
Adult Uses	--	--	--	SUP	--	--	--	--	--	
Animal Husbandry (less than 2 acres)	--	SUP	--	SUP	SUP	--	--	--	--	
Animal Husbandry (greater than 2 acres and less than 10 acres)	SUP	SPR	--	P	P	--	--	--	--	
Agricultural Distillery/ Farm Winery	--	--	--	SUP	SUP	--	--	SUP	--	
Agricultural Services	--	--	--	SPR**	SPR**	--	--	SUP	--	
Agricultural Processing Plant	--	--	--	SPR	SPR	--	SPR	SUP	--	
Agricultural Produce Stand	--	--	--	P	P	--	SPR	--	--	
Airport	--	--	--	--	--	--	--	--	SPR	
Animal pound or shelter	--	--	--	SUP	SUP	--	SUP	--	--	
Aquaculture Facility	--	--	--	SUP	SUP	--	--	SUP	--	
Bank, Savings or Loan institution	--	--	--	--	--	SPR	SPR	SUP*****	--	
Business Services	--	--	--	--	--	SPR	SPR	SUP	--	
CAFO	--	--	--	UP	SUP	--	--	--	--	
Co-generation facility as accessory use	--	--	--	SUP	SUP	--	--	SUP	--	
Commercial Extraction	--	--	--	SUP	SUP	--	--	--	--	
Commercial Fuel Sales & Distribution	--	--	--	--	--	SUP	SUP	SUP	SPR	
Day-care center	--	SPR	SPR	SPR	SPR	SPR	SPR	SUP*****	--	
Farm	--	--	--	P	P	--	--	--	--	
Funeral Home	--	--	--	--	--	SPR	SPR	--	--	
Golf Course/Country Club	SPR	SPR	SPR	SPR	--	--	--	--	--	
Home Occupation, Off-site Service	P	P	P	P	P	P	P	--	--	
Home Occupation, On-site Service	SUP	SUP	SUP	SUP	SUP	SUP	SUP	--	--	
Household Appliance Sales/Service center	--	--	--	--	--	SPR	SPR	SUP	--	
Industrial Uses	--	--	--	--	--	--	--	SUP	SPR	
Junkyards	--	--	--	SUP	--	--	--	--	--	
Municipal-County Landfill / Transfer Station	--	--	--	--	--	--	--	--	SPR	
Laundromat	--	--	--	--	--	SPR	SPR	SUP	--	
Livestock or Auction Sale	--	--	--	SUP	SUP	--	--	--	--	
Hospital	--	SUP	SUP	SUP	--	SUP	SUP	--	--	

Town of Johnstown, NY
 Chapter 84 Zoning
 Allowable Use Table

Key Existing/Proposed P: Permitted Use, SPR: Requires Site Plan Review, SUP: Requires Special Use Permit Italicized uses are recommended for removal or re-definition	Zoning District									
	Land Use	R-1	R-2	RPO	R-A	AUZ	C-1	C-2	M-1	CID
Manure Storage	--	SUP	SUP	SPR	SPR	SPR	--	SPR	--	--
Museum	--	SUP	SUP	SUP	SUP	--	SUP	SUP	--	--
Outdoor Performance Venue	--			SUP						
Printing or Publishing Establishments	--	--	--	--	--	--	SPR	SPR	SUP	--
Private Club/Lodge	--	--	--	SPR	SPR	--	SPR	SPR	--	--
Professional Offices	--	--	--	SPR*	SPR **	--	SPR ***	SPR	--	SPR
Public Utility Structure/Use	SPR	SPR	SPR	SPR	SPR	SPR	--	SPR	--	SPR
Recreation and Amusement, Commercial	--	--	--	SUP	SUP	--	SUP	SUP	SUP	--
Riding Stables/Academies	--	SUP	SUP	SUP	SPR	SPR	--	--	--	--
Sawmill	--	--	--	--	SPR	SUP	--	--	--	--
Storage, Commercial	--	--	--	--	SPR	--	SUP	SUP	--	SPR
Theaters	--	--	--	SUP	--	--	SUP	SUP	--	--
Travel Trailer and RV Parks				SUP	SUP					
Veterinary Hospital	--	--	--	--	SPR	SPR	--	--	--	--
Warehousing	--	--	--	--	--	--	--	--	SUP	SPR
Wholesale Distribution	--	--	--	--	--	--	--	--	SUP	SPR
Signs On-Premise		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	
Signs Off-Premise		SUP	SUP	SUP	SUP	SUP	SPR	SPR	SPR	

* Up to 5,000 square feet GLA

** Up to 50,000 square feet GLA

*** Up to 100,000 square feet GLA

**** Up to 400,000 square feet GLA

***** Allowable as an accessory to a permitted use on the premise

Refer to Section 84-18 for specific requirements and restrictions related to Animal Husbandry Uses

Note 1. Uses allowed in each district may be combined as a mixed use. The specific review process for each use involved shall be followed. If there is a conflict in requirements between two or more uses, the most restrictive requirement shall apply.

Appendix B: Dimensional Requirements Table

**Town of Johnstown, NY Chapter 84 Zoning
Appendix B. Dimensional Requirements Table
Zoning Districts**

Signs²	R-1	R-2	RPO	R-A	AUZ	C-1	C-2	M-1	CID
Name Plates- Max Aggregate Sign Area (sq ft.)	2	2	2	2	2	2	2	2	2
Institutional Signs- Max Aggregate Sign Area (sq ft.)	20	20	20	20	20	20	20	20	20
Business Signs- Max Aggregate Sign Area (sq ft.)	20	20	20	20	200	200	200	200	200 ¹
Max Aggregate Sign Area- Temporary Signs (sq ft.)	6	6	6	6	40	40	40	100	100
Off Premise Signs- Max Aggregate Sign Area (sq ft.)	NA	NA	yes	yes	yes	yes	yes	300	NA
Max Sign Area: Each Directional Signs (sq ft.)	--	--	--	--	--	4	4	4	4
Freestanding/Detached Sign- Max Height (ft.)	12	12	12	12	12	18	25	12	12
Permit for Permanent Signs	yes	yes	yes	yes	yes	yes	yes	yes	yes
Permit for Temporary Signs	n/a	n/a	n/a	n/a	yes	yes	yes	yes	yes
Area and Height Regulations²									
Minimum Lot Size (sq ft.) ²	1.5 Acres	1 Acre	30000	1 Acre	1 Acre	1 Acre	30000	1 Acre	1 Acre
Minimum Lot Size with Public Sewer (sq ft.)	20000	20000	15000	20000	20000	20000	15000	1 Acre	1 Acre
Minimum Lot Width (ft.)	200	150	150	150	150	150	100	150	150
Minimum Lot Width with Public Sewer (ft.)	100	80	80	80	80	100	100	150	150
Minimum Lot Width for Lakeshore Lots (ft.) ²	150	150	150	150	150	150	150	n/a	n/a
Maximum Percentage of Lot Occupied by Principal Building	0.2	0.25	0.35	0.4	0.4	0.4	0.6	0.5	0.5
Maximum Height of Bulding (feet) ²	35	35	35	50	50	50	50	50	50
Minimum Yard Distances (feet):									
Front Yard	50	50	50	50	50	50	50	50	50
Side Yard	30	20	15	30	30	20	15	20	20
Both Side Yards	75	40	40	75	75	50	30	50	50
Rear Yard	50	50	30	30	30	30	30	4	4

¹ 3 sq. ft per frontage foot; 200 sq. ft max

² More restrictive area and height requirements may apply to property within the Adirondack Park pursuant to the Adirondack Park Agency Act.

Appendix C: Parking Schedule

Table C.1 Target number of off-street parking spaces	
Residential	
Single-Family Detached Dwelling	2.0 spaces per dwelling unit
Accessory Dwelling- New Construction	1.5 spaces per dwelling unit
Accessory Dwelling- Conversion	1.5 spaces per dwelling unit
Two-Family Dwelling, Duplex	1.5 spaces per dwelling unit
Mobile Homes on Individual Lots	1.0 spaces per dwelling unit
Mobile Home Parks	1.5 spaces per dwelling unit
Multifamily- Apartment, Condos, Co-op	1.5 spaces per dwelling unit
Nursing/Convalescent Home	1 space for every 4 beds or, where individual dwelling units are provided in the form of multi-family or other type of unit, 0.25 spaces for each unit
Boarding/Rooming House	0.5 spaces per room or bed to be rented
Transient	
Hotel/Motel	1 space per guest room plus 1 space for every 400 square feet of banquet/meeting net floor area plus 1 space per four seats in any included restaurant or bar area.
Bed-and-Breakfast	1 space per guest room plus 1 space per dwelling unit
General	
Cemetery	At planning board's discretion. Use Place of Worship and Professional Offices as guidance.
Place of Worship	1 space per six seats or 1 space per 12 linear feet of bench in main assembly room. On-street parking within 1000 feet or municipal parking lots within 2000 feet of building may count towards fulfilling this requirement.
Federal, State, Municipal Public Buildings, Structure or Use	4 spaces per 1000 square feet of net floor area
General	

Fire Station	Four spaces for each fire bay plus four per 1000 square feet of office net floor area to be staffed by administrators not firefighters.
Parking Garage	Not applicable
Park / Playground	1 space per 2500 square feet. On-street parking within 1000 feet of a fenced playground entrance or any point of an unfenced playground may count towards fulfilling this requirement.
Recreational Open Space	At planning board's discretion based upon the expected occupant load of the facility which may be computed by the actual utilization of similar facilities in places similar to Johnstown.
School, Public/Private	5 spaces per classroom plus 4 spaces for per 1000 square feet of office net floor area.
Commercial	
Agricultural Distillery/ Farm Winery	1 space for every 1000 square feet of production or warehousing net floor area plus 4 spaces per 1000 feet of office net floor area.
Agricultural Services	2 spaces for every 1000 square feet of building area
Agricultural Processing Plant	1 space for every 1000 square feet of production or warehousing net floor area plus 4 spaces per 1000 feet of office net floor area.
Agricultural Produce Stand	Four spaces per establishment
Animal pound or shelter	4 spaces per 1000 square feet of net floor area of office and examination areas
Aquaculture Facility	2 spaces for every 1000 square feet of building area
Auto Dealership	4 spaces per 1000 square feet of net floor area of indoor display space plus 1 space for every 2500 square feet of outdoor display area.
Bank, Savings or Loan institution	4 spaces per 1000 square feet of net floor area

Commercial	
Business Services	4 spaces per 1000 square feet of net floor area
Car Wash	1 space per employee on largest shift
Clinic	4 spaces per 1000 square feet of net floor area
Co-generation facility as accessory use	Per planning board
Commercial Fuel Sales and Distribution	1 per employee on largest shift, plus 2 per 2,000 square feet of floor area
Day-care center	4 spaces per 1000 square feet of net floor area
Drive-In Service Establishment	Not Applicable
Extraction and processing of sand, gravel, rock or other natural mineral product	No target
Farm, including commercial woodlot	No target
Funeral Home	1 per 3 persons up to the facility's occupancy limit
Garage, Commercial Parking	Not applicable
Gasoline Service Station	Three spaces per service bay. If no auto service is available then 4 spaces per 1000 square feet of net floor area
Golf Course/Country Club	25 spaces per eighteen holes plus 1 space for every 800 square feet of banquet or restaurant area.
Home Occupation, Off-site Service	No spaces other than the target rates for residential uses.
Home Occupation, On-site Service	1 space for every 300 square feet devoted to a business.
Household Appliance Sales/Service center	4 spaces per 1000 square feet of net floor area
Junkyards	4 spaces per 1000 square feet of net floor area of a building plus 1 per 5,000 square feet of outside storage area
Laundromat	4 spaces per 1000 square feet of net floor area
Livery	4 spaces per 1000 square feet of net floor area of any office plus sufficient space to store company vehicles.
Livestock or Auction Sale	0.3 per seat or 4 spaces per 1000 square feet of net floor area

Commercial	
Hospital	1 space for every 2 beds plus adequate space for hospital maintenance and emergency vehicles
Mixed Use	No set target
Museum	1 space for every 1000 square feet of net floor area of exhibit space
Printing or Publishing Establishments	1 space for every 1000 square feet of production or warehousing net floor area plus 4 spaces per 1000 feet of office net floor area.
Private Club/Lodge	1 space per six seats or 1 space per 12 linear feet of bench in main assembly room. On-street parking within 1000 feet or municipal parking lots within 2000 feet of building may count towards fulfilling this requirement.
Professional Offices	4 spaces per 1000 square feet of net floor area
Public Utility Structure/Use	1 space
Recreation and Amusement, Commercial	4 spaces per 1000 square feet of net floor area
Repair Service Garage	Three spaces per service bay.
Restaurant, Any Type	1 space per 4 seats
Retail Center / Shopping Center	4 spaces per 1000 square feet of net floor area
Retail Store	4 spaces per 1000 square feet of net floor area
Riding Stables/Academies	1 space per 4 stalls
Sawmill	1 space for every 1000 square feet of production or warehousing net floor area plus 4 spaces per 1000 feet of office net floor area.
Stabling of Riding Horses/Ponies	1 space per 4 stalls
Storage, Commercial	1 space per 75 units with a minimum of 3 spaces
Theater or Performance Venue	1 space per 4 seats
Veterinary Hospital	4 spaces per 1000 square feet of net floor area of office and examination areas

Appendix D: Design Standard Graphics

Figure A Building Placement.

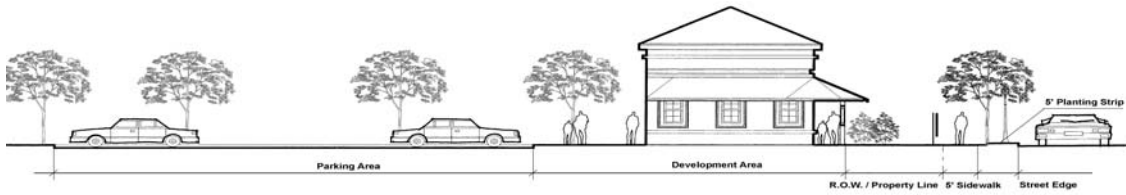


Figure B Building Placement.

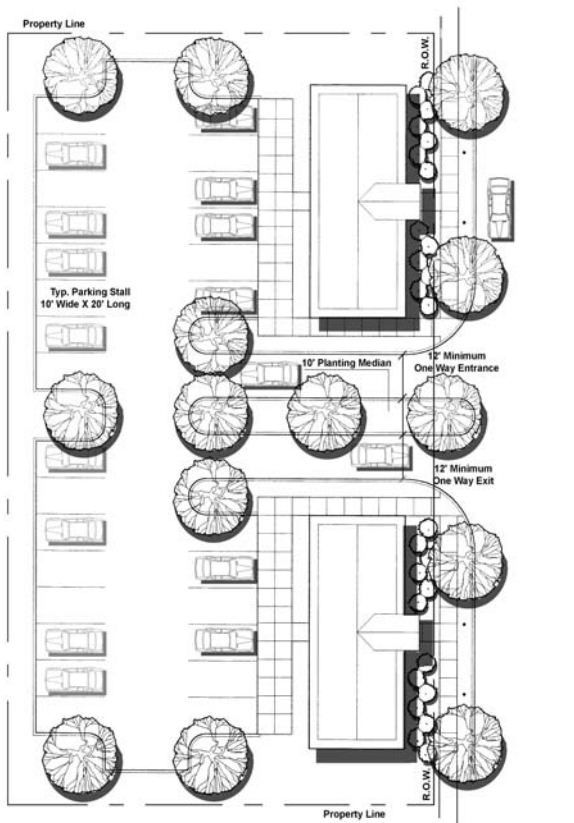


Figure C. Public Off-Street Parking.

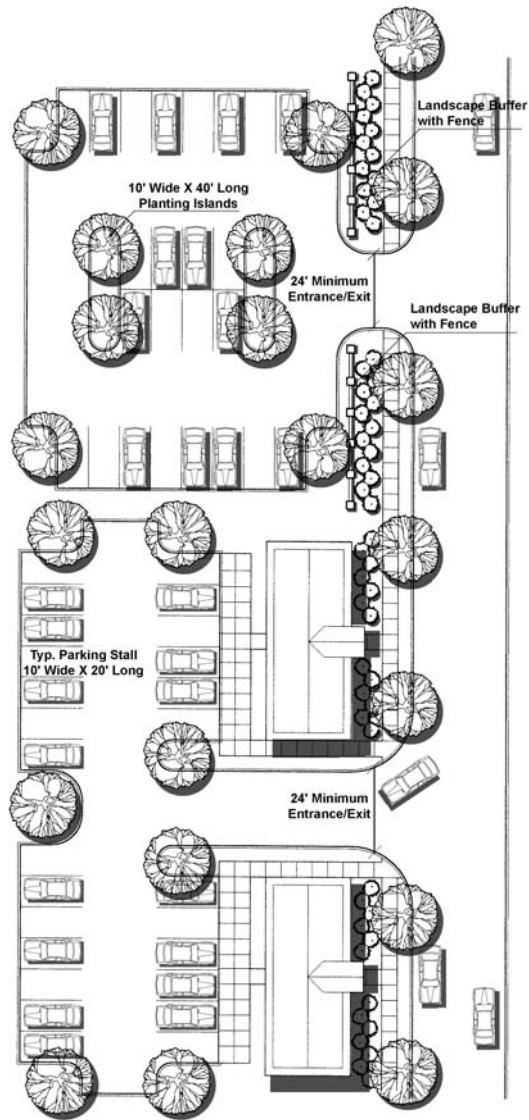


Figure D. On-Street Parking.

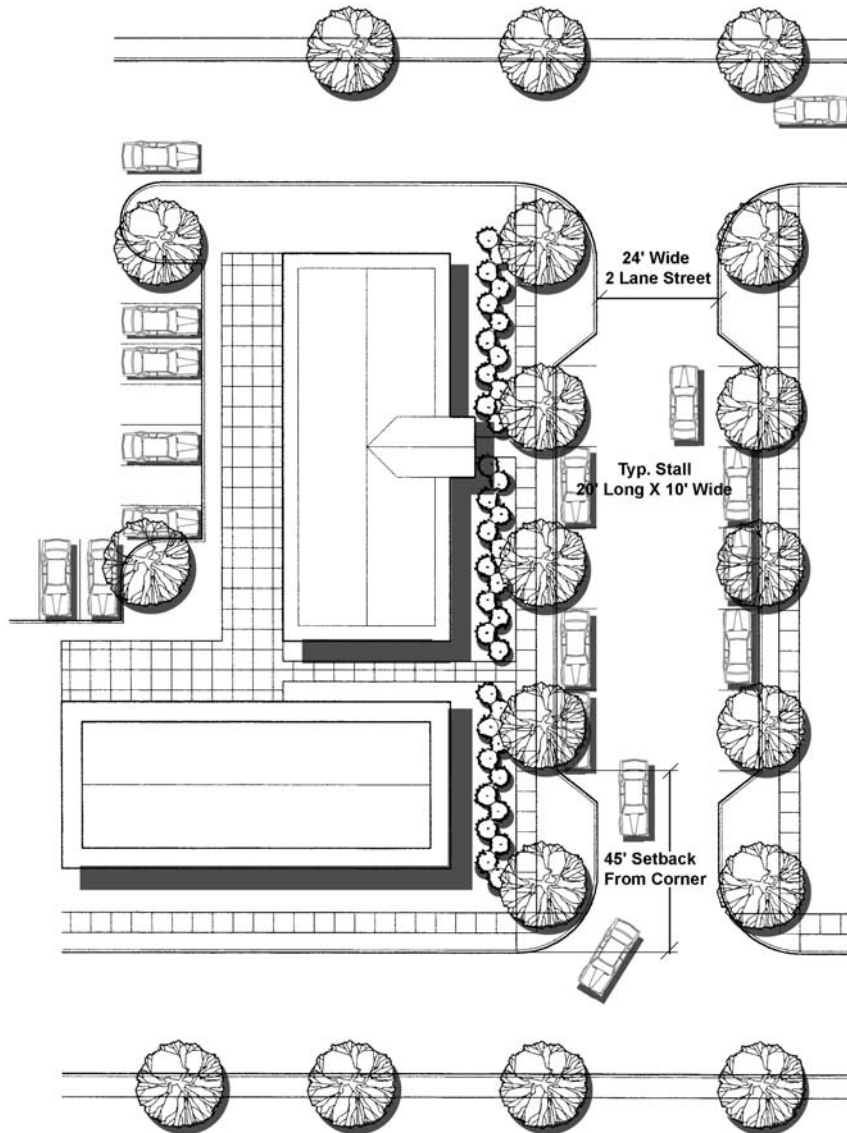


Figure E. Screening and Buffers.

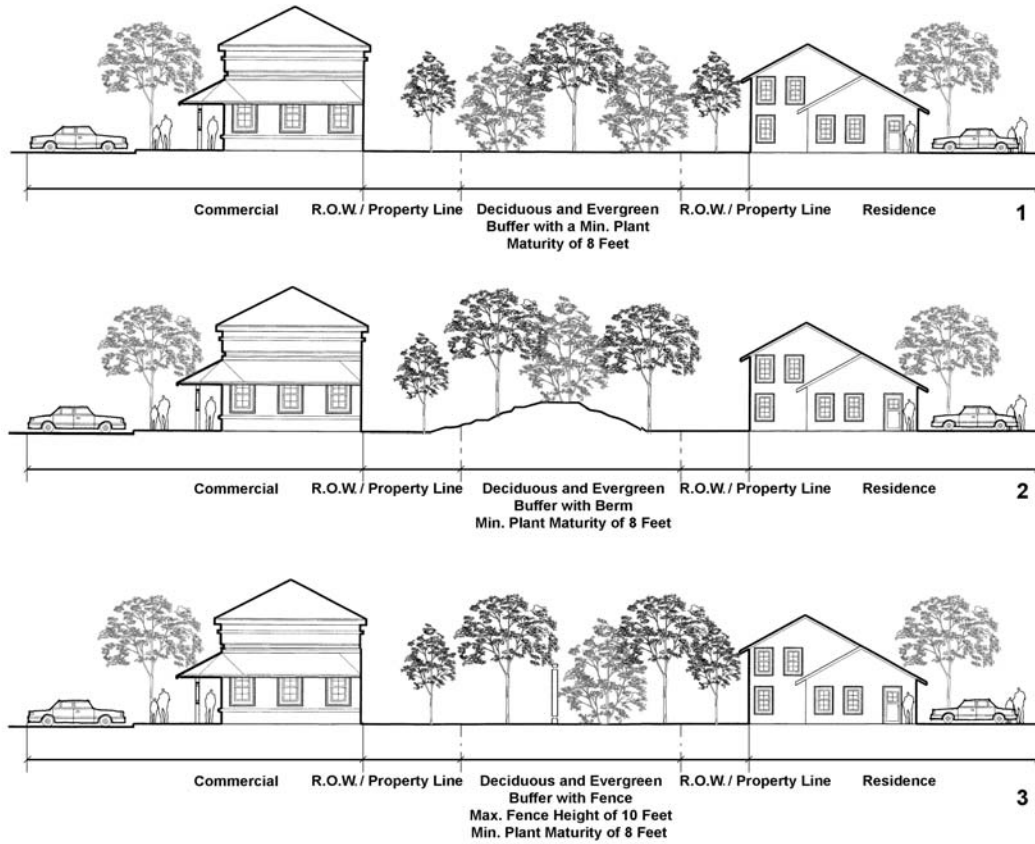


Figure F. Signage.



Figures G. Site Lighting.

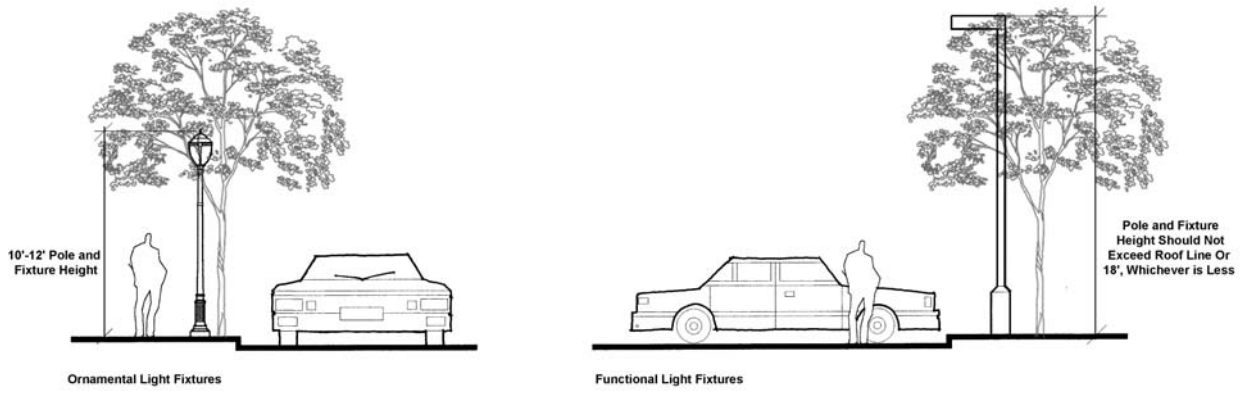


Figure H. Architectural Design – Proportion.



Figure I. Roof.



Figure J. Fenestration.

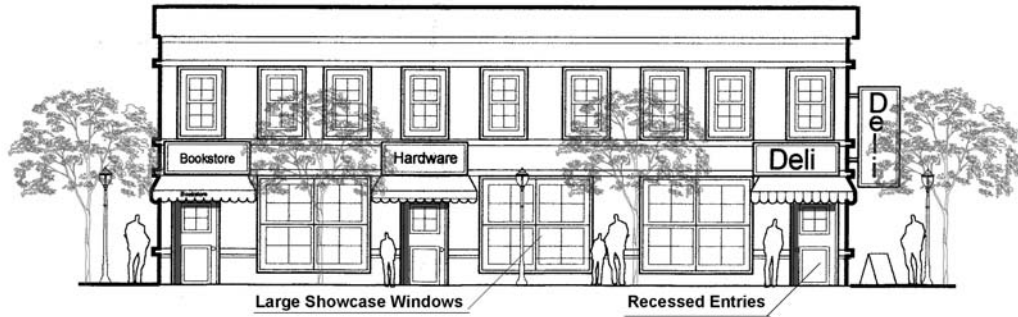
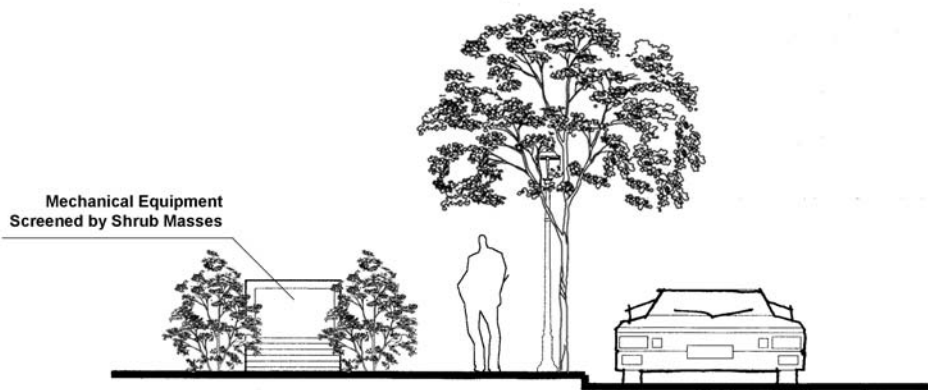
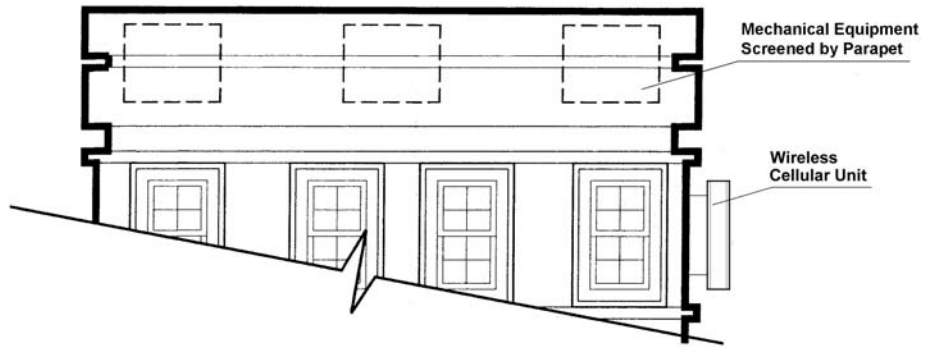


Figure K. Architectural Design – Awnings and Canopies.



Awnings and Canopies

Figure L. Specialty Equipment.



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Appendix E: Zoning Map