

**ARTICLE VI            SUPPLEMENTARY REGULATIONS**

**SECTION 601        OFF-STREET PARKING SPACE REQUIREMENTS**

For every building hereafter erected, altered or changed in use, there shall be provided at least the minimum number of off-street parking spaces set forth under this Section. All off-street parking shall be designed in such a manner as to allow vehicles to exit onto a road without backing out onto it.

A.     Residential Uses

1.     One (1) and two (2) family dwellings: Two (2) parking spaces for every dwelling unit.
2.     Multiple family dwelling: Five (5) parking spaces for every three (3) dwelling units.
3.     Home occupations: The number of parking spaces required of the existing residential uses (see above), plus three (3) spaces and one (1) space for each nonresident employee.

B.     Motel

Three (3) parking spaces, plus one (1) space for every guest room.

C.     Places of Public Assembly

One (1) parking space for every five (5) seats or one (1) parking space for every one hundred (100) square feet of floor area.

D.     Professional and Business Offices

1.     Five (5) parking spaces for each doctor or dentist, plus one (1) parking space for each employee.
2.     Attorneys - Two (2) parking spaces for each attorney, plus one (1) space for each employee.
3.     For business offices where a high volume of turnover is anticipated (such as banks, etc.) - one parking space for each one hundred fifty (150) square feet of business office space, plus one (1) parking space for each employee.

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4. For business offices where a low volume of turnover is anticipated (such as real estate office, insurance office, architect office, etc.) one (1) parking space for each three hundred (300) square feet of business office space, plus one (1) parking space for each employee.

E. Commercial

One (1) parking space for every motor vehicle used directly in the business, plus one (1) parking space for every two hundred (200) square feet of commercial area.

F. Restaurant, Eating and Drinking Establishment (other than drive-in)

One (1) parking space for every three (3) seats for customers, plus one (1) space for each employee.

G. Industrial, Wholesale, Warehouse, Storage, Freight, and Trucking Uses

One (1) parking space for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board.

H. Unspecified Uses

As required by the Planning Board, based upon use intensity, turnover, customers, employees and vehicles used.

**SECTION 602 OFF-STREET LOADING SPACE REQUIREMENTS**

Every building occupied for the purpose of commercial or industrial use shall provide adequate space for off-street loading and unloading of vehicles as required by the Planning Board.

**SECTION 603 MODIFICATION OF PARKING AND LOADING REQUIREMENTS**

The Planning Board may modify requirements for parking and loading spaces.

**SECTION 604 GASOLINE STATION, GASOLINE STATION/MARKET, MOTOR VEHICLE REPAIR SHOP, DRIVE-IN BUSINESS**

- A. Gasoline stations, gasoline station/markets, motor vehicle repair shop, motor vehicle sales agencies and drive-in businesses shall comply with the following:

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1. Lots containing such uses shall not be located within three hundred (300) feet of any lot occupied by a school, playground, library or religious institution. Measurement shall be made between the nearest respective lot lines.
2. Lot size shall be at least forty thousand (40,000) square feet.
3. Lot frontage shall be at least two hundred (200) feet.
4. Lot depth shall be at least one hundred fifty (150) feet.
5. Pumps, other service devices, and fuel and oil storage shall be located at least thirty (30) feet from all lot lines.
6. Automobile parts and dismantled vehicles are to be stored within the building and no major repair work is to be performed outside the building.
7. There shall be no more than two (2) access driveways from any street. Maximum width of each access driveway shall be thirty (30) feet.

**SECTION 605 PUBLIC UTILITY FACILITY**

Public utility installations (other than commercial communication antennas and towers, which are covered by Section 616) shall require a special use permit and shall comply with the following:

- A. Such facility shall be surrounded by a fence approved by the Planning Board.
- B. The facility shall be landscaped in a manner approved by the Planning Board.
- C. To the extent practicable, equipment shall be stored so as not to be visible from surrounding properties.
- D. Any other requirements as determined by the Planning Board.

**SECTION 606 SIGNS**

- A. General Standards

Every sign shall be designed, attached, supported, and located in such a manner as to:

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1. Not impair public safety.
2. Not restrict clear vision between a sidewalk and street.
3. Not be confused with any traffic sign or signal.
4. Not prevent free access to any door, window, or fire escape. Signs may be illuminated by a steady light provided that lighting does not illuminate adjacent property. Flashing, oscillating and revolving signs are not permitted, unless necessary for public safety or welfare.

B. Off-Premise Signs

Off-premise advertising signs are not permitted in any district.

C. Exempt Signs (Require No Permits)

1. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations not exceeding six (6) square feet.
2. Flags and insignia of any government, except when displayed in connection with commercial promotion.
3. On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or nonilluminated, not exceeding four (4) square feet per face and six (6) feet in height. Business names and advertising messages shall not be allowed.
4. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
5. Number and name plates identifying residents, mounted on house, apartment or mailbox, not exceeding one (1) square foot in area.
6. Lawn signs identifying residents, not exceeding one (1) square foot (per side). Such signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support, with no advertising message thereon.

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7. Private-owner merchandise sales signs for garage sales and auctions, not exceeding four square feet for a period not exceeding seven (7) days.
8. Temporary nonilluminated "For Sale", "For Rent", real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In a residential or agricultural-residential zoning district, one (1) sign not exceeding four (4) square feet per side and located not less than ten (10) feet from a lot line. In a commercial or industrial zoning district, one (1) sign not exceeding thirty-two (32) feet set back at least fifteen (15) feet from all property lines. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises.
9. One (1) sign identifying a farm not exceeding twenty (20) square feet in area and located not less than ten (10) feet from a lot line.
10. One (1) sign identifying a school, church, public park or public building, not exceeding forty (40) square feet in area on any one (1) side and located not less than ten (10) feet from a lot line.
11. Signs necessary for public safety or welfare.
12. Temporary Signs - A sign used on a temporary basis to identify or announce an activity or function such as a construction project and the specialists concerned, elections, sporting events, carnivals, meetings, etc. Such signs shall not exceed sixteen (16) square feet and shall not be located closer than five (5) feet to any lot line. Temporary signs shall be removed within ten (10) days after the activity or function ends.
13. Christmas holiday decorations, including lighting.
14. Signs required by Federal, State, County or Town regulations (i.e., NYS registered motor vehicle shop and NYS inspection stations).

D. Signs Permitted in Residential and Agricultural-Residential Districts

The following signs are permitted in R and A-R Districts upon issuance of a zoning permit.

1. One (1) home occupation sign not exceeding six (6) square feet in area and located no closer than ten (10) feet to any lot line.
2. Two (2) farm product signs not exceeding sixteen (16) square feet in area and located no closer than ten (10) feet to any lot line.

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3. One (1) sign identifying a mobile home park, not exceeding twenty (20) square feet in area and not located less than ten (10) feet from any lot line.
4. One (1) sign identifying an apartment complex or nonresidential use allowed by special use permit as listed in Section 501-B and 502-B. The sign shall not exceed twenty (20) square feet in area and shall not be located closer than ten (10) feet to any lot line.

E. Signs Permitted in the Commercial-Industrial District

The following signs are permitted in C-I District upon issuance of a zoning permit.

1. Two (2) on-premise signs, one (1) of which may be freestanding, shall be allowed for each permitted use. If attached, such signs shall not exceed a total area of one hundred (100) square feet or an area equal to ten (10) percent of the wall area of the building or portion thereof devoted to such use or activity, whichever is less. No sign shall project more than one (1) foot from the facade of the building.
2. Freestanding signs shall be permitted. Such signs shall conform to the following provisions relating to their number and size.
  - a. Each commercial or industrial use may have one freestanding sign. Such freestanding sign shall have an area of not more than forty (40) square feet nor be more than twenty-five (25) feet in height, and located not less than ten (10) feet from any lot line.
  - b. In a shopping center or industrial park there may be one (1) directory sign at any location thereon which shall not exceed five (5) square feet in area for each acre of land in the shopping center or industrial park provided that no such sign shall exceed thirty (30) square feet in area. No individual freestanding sign shall be allowed in a shopping center.
3. Off-premises directional signs not exceeding four (4) square feet in size and limited to two (2) signs per use shall be permitted.

F. Nonconforming Signs

1. Nonconforming signs shall be removed at the expense of the owner when any use of the property on which the sign is located is discontinued. This

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shall include both temporary and permanent signs.

2. Nonconforming signs may not be enlarged, extended, relocated or altered in any way, except to make them conform to provisions of this Zoning Ordinance. This provision shall not restrict routine maintenance of nonconforming signs involving replacement of electrical parts and repainting.

G. Prohibited Signs

The following types of sign are prohibited and shall not be permitted, erected, or maintained in any zoning district and the owner thereof shall upon written notice of the Zoning Enforcement Officer forthwith, in the case of immediate danger and in any case within not more than ten (10) days, make such sign conform with the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the Zoning Enforcement Officer may cause said sign to be removed at the expense of the owner.

1. Any sign which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstruction or distraction from the visibility of any traffic control device on public streets and roads shall be prohibited.
2. No person shall erect or maintain a sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
3. Signs which make use of words such as "STOP", "LOOK", "DANGER", and other words, phrases, symbols, or character in such a manner as to interfere with, mislead or confuse traffic shall be prohibited.
4. Any sign which has any visible moving part, visible revolving parts or visible mechanical movement of any description (except time and temperature revolving signs as allowed) or other apparent visible movement achieved by electrical or kinetic means, including intermittent electrical pulsations, or by action of normal wind current shall be prohibited.
5. It shall be unlawful for any person to display upon a sign or other exterior advertising structure any obscene, indecent, or immoral matter.

**SECTION 607 COMMERCIAL EXCAVATION**

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Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of sand, gravel or clay or other natural mineral deposits, or the quarrying of any kind of rock formation, hereafter, shall require a special use permit from the Planning Board as provided for in Sections 501.B.22 and Section 504.

A. Major Excavation (per Section 504)

1. State Permit

In order to obtain said special use permit, the applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.

2. Reclamation

The applicant shall further be required to comply with the reclamation standards established by the New York State Department of Environmental Conservation while carrying out such use.

B. Minor Excavation (per Section 501.B.22)

As part of the application process for a special use permit, the applicant's plan shall be presented to the Genesee County Soil and Water Conservation District for its review and comments. Also, before issuing a special use permit, the Planning Board must find that such excavation will not endanger the stability of adjacent land or structures or the quality or quantity of groundwater and that it does not constitute a detriment to public health, safety, or welfare by reason of excessive dust, noise, traffic, erosion, siltation or other condition.

In granting said special use permit, the Planning Board shall specify any reasonable requirement including the following:

1. Minimum Lot Area

The minimum lot area shall be ten (10) acres.

2. Minimum Setback Requirements

All buildings shall be located not less than one hundred (100) feet from any street or property line. The top of the slope of all excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line. The setback area shall not be used



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for any use in conjunction with the excavation and appurtenant activities except for one (1) public notice sign identifying the use of the property, fencing, berms, buffers, access roads and parking.

3. Slope

During mining the banks of all excavations shall be maintained at a slope not to exceed the normal angle of repose of such material.

4. Drainage

All surface drainage and any waste matter shall be controlled to prevent any silt, waste products, process residues, etc. from flowing on to public roads, adjacent property or into any stream. Excavation areas shall be planned and graded to avoid spasmodic collection of stagnant water.

5. Dust

All storage areas, yards, service roads, or other untreated open areas within the boundaries of the excavation area shall be so maintained and improved as to minimize dust or other wind blown air pollutants.

6. Roadside Landscape

Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented in the entire area of the roadside setback for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back the overburden around the perimeter of the excavation site to create a "berm" for the purpose of screening and noise reduction. No berm shall be constructed within twenty-five (25) feet of any right-of-way line or other property boundaries.

7. Fencing

Fencing may be required depending upon the existence of an earthen berm, the nature of the operations, distance from developed area, distance from property lines, depth of pit water and slope of pit walls.

8. Topsoil

All topsoil and subsoil shall be stripped from the excavation areas and

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stockpiled and seeded for use in accordance with the reclamation plan. The location of topsoil to be stored shall be identified. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams, or adjacent property. This provision shall be applied to all operations except that of topsoil removal.

9. Erosion

The applicant shall include a plan for the control of soil erosion.

10. Hours of Operation

All operations shall be conducted between the hours of seven o'clock in the morning (7:00 a.m.) and six o'clock in the evening (6:00 p.m.) with no Sunday or holiday operations, except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

11. Blasting and/or Processing

Operations involving blasting and on-site processing of mineral deposits shall not be allowed.

12. Reclamation Plan - The applicant shall submit a reclamation plan:

- a. Reclamation Plan: Means the applicant's proposal for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation.
- b. Where feasible, reclamation shall be a continuing operation. Grading, topsoil replacement and replanting of the area designated for restoration shall continue during the permit period. All reclamation work shall be complete within one year after the termination of operations, at the expense of the operator.

13. Performance Bond

A performance bond or some other financial guarantee may be required to assure that the conditions stipulated in the approval of the special use permit are carried out.

C. Duration of Special Use Permit

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The special use permit for a minor excavation shall be issued for a period of one (1) year, subject to a subsequent annual review and recertification by the Planning Board based on a written request for such continuance, which request shall be submitted to the Town Zoning Enforcement Officer at least sixty (60) days prior to the expiration of each such one (1) year period. A public hearing shall not be required for such annual recertification, except upon motion of the Planning or Town Board.

The special use permit for a major excavation shall continue as long as its New York State Department of Environmental Conservation permit remains in effect, it complies with the terms therein, and it meets the reclamation standards established by the New York State Department of Environmental Conservation.

If on-site mining or processing operations are not carried out continuously for one (1) year for a major or minor excavation, the site shall be considered abandoned, and, prior to any further excavation or processing, a new permit shall be required.

**SECTION 608      CLUSTER RESIDENTIAL DEVELOPMENT**

Cluster residential development of one (1) family dwellings may be permitted, as specified in the New York State Cluster Enabling Act, Chapter 963 of the Laws of 1963, in the A-R and R Districts of the Town provided that the following conditions are observed:

- A. The project shall encompass a minimum land area of ten (10) acres.
- B. The developer shall dedicate to permanent open space no less than twenty-five (25) percent of the total project area.
- C. The developer shall have received informal conditional approval of the Planning Board of the design and arrangement of streets, lots, open spaces, and other elements of the project prior to filling the special use permit application.
- D. The requirements of this Zoning Ordinance insofar as overall density, minimum front, side and rear yard areas for the outer boundaries of the entire project, maximum building height and maximum lot coverage are as specified in the zoning schedule of this Zoning Ordinance. All other area requirements of this Zoning Ordinance may be modified by the Planning Board.

**SECTION 609      SWIMMING POOLS**

- A. Permit

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Before any swimming pool is erected, constructed or installed upon any property in the Town, a zoning permit shall be obtained. A zoning permit shall be required for any enlargement or other major alteration of any existing swimming pool.

B. Location

Swimming pools shall not be located within the front yard area or within eight (8) feet of the side or rear lot line.

C. Barriers

Barriers shall be erected in conformance with the New York State Uniform Fire Prevention and Building Code.

D. Drainage

When draining a swimming pool such activity shall be conducted in a manner which will not be injurious to surrounding properties.

**SECTION 610 JUNKYARDS**

A. Establishment

No person shall operate, establish, or maintain a junkyard until he has obtained a special use permit in compliance with Section 808.

B. Location Requirements

Said use shall not be located within one hundred (100) feet from any highway right-of-way, body of water or property line; or five hundred (500) feet from any existing dwelling, church, school, hospital, public building, or place of public assembly. In reviewing this special use application, the Planning Board shall take into account, after proof of legal ownership or right to such use of the property for the permit period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings, or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

C. Aesthetic Considerations

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The Planning Board shall also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Planning Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barrier protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

D. Fencing

Such use shall be completely surrounded with a fence which substantially screens said area and shall have a suitable gate which shall be closed and locked except during the working hours of said use. Such fence shall not be erected nearer than one hundred (100) feet from the right-of-way of a public highway. All materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence, except during transportation of same in the reasonable course of business. All storage shall be accomplished within the area enclosed by the fence. Where the topography, land forms, natural growth of trees or other considerations accomplish the purpose of this Section in whole or in part, the fencing requirements hereunder may be reduced by the Planning Board, provided, however, that such natural barrier conforms with the purpose of this Section.

E. Existing Junkyards

All junkyards existing at the time of adoption of this Zoning Ordinance shall be limited to the size, area, and scale of the present use and operation unless a permit is authorized in accordance with these regulations.

**SECTION 611 RECREATIONAL VEHICLES AND  
CAMPGROUNDS/RECREATIONAL VEHICLE PARKS**

A. Recreation Vehicles

1. Recreation vehicles may be occupied as a dwelling in the Residential or Agricultural-Residential Districts only as follows:
  - a. As provided in Subsection 611 of this Zoning Ordinance.

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- b. For not more than two (2) separate periods, per year, not exceeding two (2) weeks each, one (1) recreational vehicle may be used as temporary lodging while parked on the same lot with a dwelling.
- c. With a temporary permit, issued by the Planning Board, one (1) recreational vehicle may be used for a period of six (6) months each and subject to the following conditions:
  - i. Approval shall be granted by the Genesee County Health Department.
  - ii. Any water and/or sewer connections must be removed and the recreational vehicle moved to an approved parking location upon expiration of such permit.
2. An unoccupied recreational vehicle shall be stored no closer than five (5) feet to any rear or side lot line and no closer than twenty (20) feet to the highway right-of-way line. The recreation vehicle shall not obscure the view by neighbors or oncoming traffic. When so stored, no connections shall be permitted except electrical.

B. Campgrounds/Recreational Vehicle Parks

1. Location

A campground/recreational vehicle park shall be located and maintained only in an A-R District upon issuance of a special use permit and in accordance with the standards set forth in this Zoning Ordinance.

2. Existing Campgrounds/Recreational Vehicle Parks

All existing campgrounds/recreational vehicle parks of record shall be exempt from this Zoning Ordinance, except that they shall comply with this Section whenever they are sold or any addition, expansion or alteration of the use or operation is proposed. Within six months after the adoption of this Zoning Ordinance, the Zoning Enforcement Officer shall notify existing campgrounds/recreational vehicle parks of this provision.

3. Standards and Requirements for the Construction of Campgrounds/  
Recreational Vehicle Parks

4. Before a special use permit for a campground/recreational vehicle park is

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issued under Section 808, the Planning Board shall determine that the proposed use is designed and arranged in accordance with the following standards.

a. Site

The campground/recreational vehicle park shall be located on a well-drained site which is properly graded to insure rapid drainage and be free at all times from stagnant pools of water.

b. Lots

Each campground/recreational vehicle park shall be marked off into lots. The number of lots in such campground/recreational vehicle park shall not exceed twelve (12) per gross acre. Each lot shall have a total area of not less than twenty-five hundred (2,500) square feet with a minimum dimension of thirty (30) feet. Only one (1) recreational vehicle or twelve (12) foot wide park model shall be permitted to occupy any one (1) lot unless the lot is classified as a double site. In addition one (1) tent may also occupy such site.

- i. Only one (1) storage shed per site with a maximum size of eight (8) feet by ten (10) feet by eight (8) feet shall be permitted.
- ii. Attached aluminum patio enclosure and/or awning shall be of size to be determined by the park owner.

c. Setbacks

All recreational vehicles or tents shall not be located nearer than a distance of:

- i. Twenty-five (25) feet from an adjacent property line, except residential property.
- ii. One hundred (100) feet from any adjacent residential property line.
- iii. One hundred (100) feet from the right-of-way of a public street or highway.

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iv. Ten (10) feet from the nearest edge of any roadway located within the park.

d. Recreational Vehicle Stand or Pad

Each residential vehicle site shall have a stand of sufficient size and durability to provide for the placement and removal of recreational vehicles and for the retention of each recreational vehicle in a stable condition. The stand shall be suitably graded to permit rapid surface drainage.

e. Accessibility

Each campground/recreational vehicle park shall be easily accessible from an existing public road with entrances and exits designed and strategically located for the safe and convenient movement into and out of the campground/recreational vehicle park and with minimum conflicts with the movement of traffic on a public road. All entrances and exits shall be at right angles to existing public roads and all entrances and exits shall be of sufficient width to facilitate the turning movements of recreational vehicles.

f. Street System

i. Each campground/recreational vehicle park shall have improved streets to provide convenient access to all lots and other important facilities within the campground/recreational vehicle park.

ii. The street system shall be so designed to permit safe and convenient vehicular circulation within the campground/recreational vehicle park.

iii. All streets shall have the following minimum width:

(a) One-way traffic movement – twelve (12) feet.

(b) Two-way traffic movement – twenty (20) feet.

iv. Except in cases of emergency, no parking shall be allowed on such streets.



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- v. Adequate access shall be provided for each lot. Such access shall have a minimum width of nine (9) feet.
  
- g. Utilities  

All sewer and water facilities provided in each campground/recreational vehicle park shall be in accordance with the regulations of the Genesee County Department of Health and the New York State Department of Environmental Conservation.
  
- h. Open Space  

Each campground/recreational vehicle park designed for twenty (20) or more sites shall provide a common open area suitable for recreation and play purposes. Such open space shall be conveniently located. The open space area shall be at least ten (10) percent of the gross land area of the campground/recreational vehicle park but not less than one (1) acre.
  
- i. Improvements  

Lighting, landscaping and buffer areas may be required by the Planning Board and shall be in keeping with surrounding development, the unique features of the site and the health and safety of occupants of the campground/recreational vehicle park.
  
- j. Management  

Every campground/recreational vehicle park shall be managed from an office located on the premises. The management shall maintain the campground/recreational vehicle park in such a manner so as to protect the health, safety and comfort of all persons accommodated in the campground/recreational vehicle park in a clean and attractive manner.
  
- k. Campground/Recreational Vehicle Park Special Use Permits
  - i. Pursuant to Article VIII, the Zoning Enforcement Officer shall inspect at least annually the operation of a campground/recreational vehicle park to make sure it complies with provisions of this Zoning Ordinance and any and all conditions prescribed by the Planning Board when

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issuing the special use permit.

- ii. Before receiving a special use permit for a campground/recreational vehicle park, the owner thereof shall make an adequate showing that the subject property complies with the provisions of this Section.

**SECTION 612 CONTRACTOR'S STORAGE YARD**

Contractor's storage yards may be permitted in the A-R District, subject to the following requirements:

- A. The Planning Board may require that all building materials, equipment and supplies be located within enclosed buildings or open sheds.
- B. Outdoor storage areas, if any, shall be limited to those specific locations and designated limits approved by the Planning Board. Such outdoor storage areas shall be heavily screened and landscaped from all street lines and lot lines, as may be required by the Planning Board.
- C. The Planning Board may require conformance with any other necessary requirements in order to prevent a nuisance to neighboring properties by reason of dust, noise, odor or any other nuisance which the Planning Board feels will be associated with the intended use.

**SECTION 613 ANIMAL WASTE STORAGE FACILITIES**

All proposals for installation and/or modification of animal waste storage facilities shall be submitted to the Genesee County Soil and Water Conservation (GCSWCD) for their review and determination as to acceptability. If a proposal is acceptable to GCSWCD then the Planning Board will consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.

**SECTION 614 LAND APPLICATION FACILITY**

A land application facility may be permitted in the A-R District once a special use permit has been obtained and subject to the following requirements.

- A. State Permit and Regulations
  1. Applicants should furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to a 6 NYCRR

Part 360 Subpart 4.

2. Applicant shall meet all the appropriate requirements of the 6 NYCRR Part 360 Subpart 4.

B. Review by Soil and Water Conservation District

Plans for a land application facility shall be reviewed for acceptability by the Genesee County Soil and Water Conservation District.

C. Review by Planning Board

1. Before issuing a special use permit, the Planning Board shall consider the potential impacts posed by such a facility upon surrounding land uses and water quality and shall review the facility's potential impact on public health, safety or welfare by reason of excessive dust, odor, noise, traffic, erosion, siltation or other conditions.
2. The Planning Board may require conformance with any other necessary requirements in order to prevent a nuisance to neighboring properties or residences.

D. Duration of Special Use Permit

By annual review of the Planning Board, the special use permit shall continue as long as its New York State Department of Environmental Conservation permit remains in effect, it complies with the terms thereon and complies with this Zoning Ordinance and other requirements established by the Planning Board.

**SECTION 615 ADULT USES**

It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics when several of them are concentrated under certain circumstances which produce a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary reason for this regulation of adult businesses is to prevent the inappropriate location of such uses near existing residential uses, schools, places of worship, public playgrounds or parks and to avoid a concentration of these uses in any one area which could create adverse neighborhood effects.

A. Definitions

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1. Adult Bookstore - An establishment having stock-in-trade consisting partially or totally of books, magazines, any other periodicals or films (including videos or compact discs) for sale, rent or viewing on premises by use of motion picture devices or any other coin-operated means, and which establishment has greater than twenty-five percent (25%) of said enumerated stock-in trade which is distinguished or characterized by its emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas.
2. Adult Entertainment Cabaret - A public or private establishment which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.
3. Adult Mini Motion Picture Theater - An enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relative to specified sexual activities or specified anatomical areas for observation by patrons therein.
4. Adult Motion Picture Theater - An enclosed building with a capacity of fifty (50) or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas for observation by patrons therein.
5. Person - A person, firm, partnership, corporation, association or legal representative, acting individually or jointly.
6. Specified Anatomical Areas
  - a. Less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of areola.
  - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
7. Specified Sexual Activities
  - a. Human genitals in a state of sexual stimulation or arousal.
  - b. Acts of human masturbation, sexual intercourse or sodomy.

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- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

B. Restrictions

Adult uses, including but not limited to, adult bookstore, adult motion picture theater, adult mini motion picture theater and adult entertainment cabaret shall be permitted upon the issuance of a special use permit (limited to Commercial-Industrial Districts only) subject to the following restrictions.

1. No such adult uses shall be allowed within five hundred (500) feet of another existing adult use.
2. No such adult use shall be located within one hundred (100) feet of the boundaries of any Residential (R) District or within five hundred (500) feet of any existing residential use located on another lot in any zoning district.
3. No adult use shall be located within one thousand (1000) feet of an existing school, place of worship, public playground or park.
4. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

**SECTION 616 COMMERCIAL COMMUNICATION TOWER**

No commercial communication tower or antenna(s) shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations.

A. Shared Use of Existing Towers and/or Structures

At all times, shared use of an existing tower and/or structure (i.e., another Commercial communications tower, water tower, building, etc.) shall be preferred to the construction of a new commercial communication tower. An applicant shall be required to present an adequate report inventorying existing towers or other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new commercial communication tower. The installation of a commercial communications antenna(s) on an existing structure located within the A-R District shall be considered a permitted accessory use not subject to Site Plan

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Review, provided the following criteria are met:

1. The existing structure is not increased in height or otherwise modified so as to change its visual appearance,
2. The antenna(s) do not extend above such structure more than ten (10) feet, and
3. The applicant provides the necessary documentation to the Zoning Enforcement Officer to verify the existing structure and proposed antenna(s) installation would comply with the NYS Uniform Fire Prevention and Building Code.
4. An applicant proposing to share use of an existing tower and/or structure shall be required to document intent from an existing tower/structure owner to allow shared use.

B. New or Altered Towers and/or Structures

The Planning Board may, in its sole discretion, consider a new or altered (including tower or structure which are modified, reconstructed, or changed) commercial communication tower/structure where the applicant demonstrates to the satisfaction of the Planning Board that shared usage of an existing tower/structure is impractical. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers or other structures as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.

The applicant shall be required to submit a site plan in accordance with Section 808 (Site Plan Review provisions need to be added) for all commercial communication towers that are proposed to be erected, moved, reconstructed, changed or altered. Site Plan review will also be required in those instances when antenna(s) are being added to existing structures not in compliance with the criteria set forth in Subsection A of this Section. In addition to Section 808, the site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire anchors, parking and landscaping and shall include grading plans for new facilities and roads.

C. Supporting Documentation

The Planning Board shall require that the site plan include a completed Visual

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Environmental Assessment Form (Visual EAF - SEQR); and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any required clearing. The applicant must provide a coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF in addressing this Subsection and Subsections J and K of this Section.

D. Shared Usage of Site with New Tower

Where shared usage of an existing tower or other structure is found to be impractical, as determined in the sole discretion of the Planning Board, the applicant shall investigate shared usage of an existing tower or other structure site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection B of this Section. Any new commercial communication tower approved for a site with an existing tower or other structure site shall be subject to the standards of Subsections F through N of this Section.

E. New Tower at a New Location

The Planning Board may consider a new commercial communication tower on a site not previously developed with an existing tower or other structure when the applicant demonstrates that shared usage of an existing tower site is impractical, as determined in the sole discretion of the Planning Board, and submits a report as described in Subsection B of this Section.

F. Future Shared Usage of New Towers

The applicant must design a proposed commercial communication tower to accommodate future demand for commercial broadcasting and reception facilities. This requirement may be waived provided that the applicant demonstrates, in the sole discretion of the Planning Board, that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

1. The number of Federal Communications Commission (FCC) licenses

foreseeably available for the area;

2. The kind of tower site and structure proposed;
3. The number of existing and potential licenses without tower spaces;
4. Available spaces on existing and approved towers; and
5. Potential adverse visual impact by a tower designed for shared usage.

G. Setbacks for New Towers

All proposed commercial communication towers and accessory structures shall be set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of adjoining residential properties.

1. All commercial communication tower bases must be located at a minimum setback from any property line at a distance at least equal to the tower height, or the distance between the tower base and guy wire anchors, or the minimum setback of the underlying zoning district, or a minimum setback at a distance which shall be established in the sole discretion of the Planning Board based on the unique characteristics of the site, whichever of the foregoing is greater. The minimum setback requirement of this paragraph may be increased in the sole discretion of the Planning Board, or it may be decreased, again in the sole discretion of the Planning Board, in those instances when the applicant has submitted plans for a tower designed in such a manner as to collapse within a smaller area. Such tower design and collapse zone must be acceptable to the Town Engineer and the Planning Board.
2. Accessory structures must comply with the minimum setback requirements in the underlying district.

H. Visual Impact Assessment

The Planning Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower. Construction of a new commercial communication tower or modification of an existing tower shall be subject to those guidelines and criteria listed below that the Planning Board, in



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its sole discretion, deems appropriate at the pre-submission conference:

1. Assessment of "before and after" views from key viewpoints both inside and outside of the Town, including state highways and other major roads, from state and local parks, other public lands; from any privately-owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers.
2. Assessment of alternative tower designs and color schemes, as described in Subsection I below.
3. Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

I. New Tower Design

Alternate designs shall be considered for new towers, including lattice and single pole structures. Plans should show that the owner of the commercial communication tower has agreed to permit other persons to attach other communication apparatus which do not interfere with the primary purposes of the commercial communication tower, provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment. The design of a proposed new tower shall comply with the following:

1. Unless specifically required by other regulations, all towers shall have a neutral, earth tone, sky tone or similar finish that will minimize the degree of visual impact that the new tower may have. Artificial lighting, including strobes, beacons and other hazard avoidance lighting, shall be limited to that required by the Federal Aviation Administration (FAA) or other governmental agency, recognized safety guidelines and the Planning Board.
2. Any new tower shall be designed and constructed to have the minimum height and carrying capacity needed to provide future shared usage (co-locating of a minimum of two (2) additional antennae).
3. The Planning Board may request a review of the application by the Town Engineer, or other engineer selected by the Planning Board, for evaluation of need for and design of any new tower. The costs associated for such review shall be borne by the applicant.

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4. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
5. No portion of a tower may be used for signs or advertising purposes, including company name, banners, streamers, etc.
6. The applicant shall provide documentation acceptable to the Planning Board that certifies the operation of the proposed commercial communication tower facility will not interfere with usual and customary transmission or reception of radio, television or other communication equipment.
7. Space on communication towers shall be made available for public safety purposes (i.e., Genesee County Public Safety Radio System) at no cost to public safety agencies.

J. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4) inches in diameter (measured at a height of (4) feet off the ground) shall take place prior to approval of the special use permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

K. Screening

Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all commercial communication towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

L. Access

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all

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times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

M. Parking

Parking shall be provided in accordance with Section 601. No parking space shall be located in any required yard.

N. Fencing

Sites of proposed new commercial communication towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence eight (8) feet in height from finished grade, unless the applicant demonstrates to the sole discretion of the Planning Board that such measures are unnecessary to ensure the security of the facility. Such security fencing shall surround the tower base as well as each guy anchor.

O. Maintenance and/or Performance Bond

Prior to approval of any application, the Planning Board, in its sole discretion, may require the applicant and/or owner to post and file with the Town Clerk a maintenance and/or performance bond or other form of security acceptable to the Town Attorney, in an amount sufficient to cover the installation, maintenance and/or construction of said tower during its lifetime and provide for its removal. The amount required shall be determined in the sole discretion of the Planning Board, based upon the unique characteristics of the tower and site. In furtherance of the foregoing, the applicant and/or owner shall cooperate with the Planning Board in supplying all necessary construction and maintenance data to the Board prior to approval of any application to accomplish the foregoing.

P. Removal of Obsolete/ Unused Facilities

Approval of a new commercial communication tower facility shall be conditioned upon the applicant's agreement to remove such facility once it is no longer used. Removal of such obsolete and/or unused commercial communication towers facilities shall take place within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement with their application to ensure compliance with this requirement.

**SECTION 617 – SELF SERVICE STORAGE FACILITY [LL No. 2 of 2007]**

The regulations and requirements of this section are intended to regulate the manner in which self service storage facilities are used, to minimize the visual impacts created by these uses and to provide for minimal design standards to preserve the character of surrounding agricultural/residential or commercial/industrial uses.

- A. Self Service Storage Facilities may be permitted in the Commercial-Industrial District (C-1)
- B. Regulations
  - 1. The only commercial activity permitted at a self service storage facility shall be rental of storage units, pickup and deposit of goods, and/or property in dead storage.
  - 2. Storage units shall not be used to:
    - a. Manufacture, fabricate or process goods,
    - b. Service or repair of vehicles, boats, small engines or electrical equipment,
    - c. Conduct similar repair activities,
    - d. Conduct garage sales or retail sales of any kind; or
    - e. Conduct any other commercial or industrial activity.
  - 3. The maximum size of a Self Service Storage Facility shall be twenty-five thousand (25,000) square feet. The maximum size of buildings at a self service storage facility shall be five thousand (5,000) square feet per acre of land.
  - 4. Individual storage units or private postal boxes in a self storage facility shall not be considered a premise for the purpose of assigning a legal address in order to obtain an occupational license or other governmental permit or license to do business.
  - 5. Storage facility doors shall not face any abutting property which is zoned for residential use or upon which a residence exists. The unit doors of a self service storage facility shall be screened from the view of any street right-of-way through the use of landscaping material or architectural

design features.

6. Other than employees of the company or corporation operating the self service storage facility, no person shall be involved in any business activity in any self service storage facility except for the storing or retrieving of material.

C. Inspections

The Code Enforcement Officer of the Town of Alexander shall have access to the individual self service storage units for the purpose of inspection to determine compliance with this section. Owners or operators of the service storage facilities and the lessees of each individual self service storage unit shall allow access to the individual units for this inspection up to six (6) times per year.

D. Building Heights

Self service storage facilities shall be one (1) story and shall not exceed twenty (20) feet in height.

E. Lighting

All lights shall be shielded to direct light onto the established buildings and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft. All lights shall be mounted at a height not exceeding that of the building.

**SECTION 618 - WIND ENERGY CONVERSION FACILITIES** [LL No. 3 of 2007]

A. Site Plan Review

1. Wind energy conversion facilities may not be constructed, erected, located, altered or used without first obtaining review, approval and special use permit pursuant to this section. The site plan, as specified herein, for all wind energy conversion facilities must be reviewed by the Town Planning Board. Upon completion of the Town Planning Board review of the wind energy conversion facility site plan, the Town Planning Board shall render an advisory recommendation to the Town Board recommending approval, denial or conditional approval of the site plan. The Town Board in its sole discretion may then approve, deny or impose conditions of the wind energy conversion facilities site plan.

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- B. An applicant proposing a wind energy conversion facility must submit the following site plan materials:
1. Survey of the property showing existing features such as contours, buildings, structures, street, utility easements, rights-of-way, land use, land use district, ownership of surrounding property and vehicular access;
  2. Site plan showing the location of proposed structures;
  3. Preliminary layout plans, including the location of new access roads and transmission lines;
  4. A description of the routes used by construction and delivery vehicles and any road improvements that will be necessary in the Town to accommodate construction vehicles, equipment or other deliveries;
  5. Anticipated construction schedule;
  6. Description of operations (including regular and unscheduled maintenance);
  7. Storm Water Management Plan describing measures to be taken to ensure adequate storm water management and soil erosion control.
  8. A description of measures that will be taken to minimize impacts on farm land and soils.
  9. Wind Energy Conversion Facility - Industrial site plan applications shall include a separate plan for each tower location.
  10. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the New York State Uniform Fire Prevention and Building Code.
  11. The Planning Board may require any further information it finds may be necessary to review the application.
  12. The Town Board may waive these submissions requirements if this information is included in a Draft Environmental Impact Statement (DEIS). (The Town Board as decision maker and lead agency is responsible for application content and content of the DEIS and can not delegate this function to the Planning Board which is advisory status only.)

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13. The construction of wind energy conversion facility(ies) will be overseen by a licensed professional engineer/clerk of the works. This person will be hired by the Town Board.
- C. Visual Assessment – An applicant shall submit a visual analysis, including a mitigation analysis, prepared by a qualified ecological/aesthetic engineer in a format generally accepted in the ecological/aesthetic engineering profession. The visual assessment should also include, but not be limited to, an analysis of the lighting or illumination of the turbines and an assessment of any shadowing or other visual effect of the wind energy conversion facility relating to the level of natural or artificial illumination. The applicant will be required to assess any viewpoint as determined and directed by the Town Board. This analysis can be submitted as part of the application or can be included in the Draft Environmental Impact Statement (DEIS).
  - D. State Environmental Quality Review Act and US Fish and Wildlife Service Regulations – The applicant shall fully comply with the New York State Environmental Quality Review Act and US Fish and Wildlife Service Regulations and shall submit a Draft Environmental Impact Statement for review (DEIS).
  - E. Avian Analysis - The applicant shall submit an avian study to assess the potential impact of a proposed wind energy conversion facility upon bird and bat species. The avian study shall at a minimum report on a literature survey for all species, and any information on flyways. This analysis should also include an explanation of potential impact and a proposed mitigation plan, if necessary. This analysis can be submitted as part of the application or can be included in a Draft Environmental Impact Statement (DEIS).
  - F. Noise
    1. Audible noise due to the operation of any part of wind energy conversion facility shall not exceed fifty (50) dBA for any period of time, when measured at any residence, school, hospital, church, public park or public library, unless the developer has obtained a noise easement.
    2. As set forth herein, compliance with wind energy conversion facility only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The owner will have certified testing contractors perform tests and provide the results to the Town. This is to be done annually or at the request of the Town Board.

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G. Shadow Flicker

1. Shadow Flicker Map - Maps shall be prepared showing projected annual hours of shadow flicker impact for all sensitive areas/locations within the project area including, but not limited to, any residence, school, hospital, church or public library.
2. Shadow Flicker Duration - Shadow flicker for all sensitive areas/locations within the project area shall be limited to thirty (30) hours per year and shall not exceed thirty (30) minutes per day.

H. Height Limitation - The maximum height for any device which is part of a wind energy conversion facility shall be measured from the highest vertical point of the wind turbine when the turbine blade is in a vertical position perpendicular to its base.

1. Wind Energy Devices shall be limited to a maximum height of one hundred fifty (150) feet.
2. Wind Energy Conversion Facility shall be limited to a maximum height of five hundred (500) feet.

I. Setbacks – The tower or towers for a wind energy conversion facility must meet the following setback requirements (all set back distances shall be measured from the center line of the wind turbine). The overall height of any device which is part of a wind energy conversion facility shall be measure from the highest vertical point of the wind turbine blade is in the perpendicular to its base.

1. Wind energy conversion facility installation shall be setback a minimum of one and one-half (1.5) times of the overall height of the structure which shall be measured from the highest vertical point of the wind turbine when the turbine blade is in a vertical position perpendicular to its base, from the edge of the right-of-way of any public road or from any non-wind energy conversion facility structure (said structure to only include such structures that reasonable require this setback provision in order to preserve public health and safety) or any above ground telecommunications or electric utilities or from the property line of any owner who is not a participant in the wind energy conversion facility project. Right-of-way for purposes of this setback requirement shall mean the edge of the right-of-way closest to the wind energy conversion facility structure, unless waived in writing, in the form of an easement that is recorded in the Genesee County Clerk's Office, by the abutting landowner and an area variance is granted by the



Zoning Board of Appeals.

2. A minimum of one thousand five hundred (1,500) feet from the nearest off-site wind energy conversion facility participant's residence, measured from the exterior wall of the residence unless waived in writing, in the form of an easement that is recorded in the Genesee County Clerk's Office, by the owners of such structure and an area variance is granted by the Zoning Board of Appeals.

J. Water

1. The applicant shall submit a water study to assess the potential impact of a proposed wind energy conversion facility upon water sources within five hundred (500) feet of a proposed wind energy conversion facility site.
2. This analysis should also include an explanation of potential impact and a proposed mitigation plan, if necessary.
3. This analysis can be submitted as part of the application or can be included in a Draft Environmental Impact Statement (DEIS).
4. A wind energy conversion facility shall be a minimum of five hundred feet (500) from any wellhead or well source to address the preservation of water quality and quantity.

K. Other Specifications

1. Guy wires and/or anchors – All guy wires shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any wind energy conversion facility shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.
2. Lighting – No wind energy conversion facility shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy wind energy conversion facility lightning requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to the board's approval, with consideration of existing residential or commercial uses within two thousand (2,000) feet of each wind energy conversion facility for which such strobe lighting is proposed.

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3. Broadcast Interference – No individual wind energy conversion facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
  - a. No individual wind energy conversion facility shall be installed in location where its proximity with existing fixed broadcast, retransmission or reception antenna (including residential reception antenna) for radio, television or wireless phone or other personnel communications systems would produce electromagnetic interference with signal transmission or reception.
  - b. The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.
4. Connecting Cables – All power transmission distribution lines from the wind energy conversion facility shall be underground from the wind energy conversion facility to the collection station at a minimum depth of four (4) feet. All other circumstances would be reviewed during the site plan process.
5. Ice Buildup Sensors – No wind energy conversion facility shall be permitted which lack an automatic shutdown feature in the event of blade icing.
6. Signage – No advertising signs shall be allowed on any part of a wind energy conversion facility. Some circumstances could be subject to review during the site plan process.
  - a. A weather resistant sign plate no greater than two (2) square feet in size containing the current owner or operator, emergency phone number, and current address of such owner/operator shall be located on the exterior surface of the tower or on the fence surrounding each wind energy conversion facility.
  - b. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind energy conversion facility, tower, building, or other structure associated with a wind energy conversion facility so as to be visible from any public road.

L. Safety and Operating Considerations and Requirements

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1. Fencing – Access to the wind energy conversion facility shall be limited by secured entry to the tower base.
2. Limit Tip Speed – No wind energy conversion facility shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the wind energy conversion facility structure, rotor blade, and turbine components.
3. Removal if Not Operational – Any wind energy conversion facility, which is has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures to such wind energy conversion facility shall also be removed. The site shall be restored to as natural a condition as possible, including complete removal of foundations. Such removal shall be completed within nine (9) months of the cessation of active and continuous use of such wind energy conversion facility.
  - a. Upon completion of installation, the site shall be returned to as close as possible to its natural state. Seeding of disturbed areas is a minimum.
  - b. Buildings and Grounds Maintenance. Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc., shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.
4. Wind Energy Conversion Facility Modifications – Any and all modification, additions, deletions or changes to wind energy conversion facility that operate under a special use permit, whether structural or not, shall be made by special use permit, expect that such special use permit shall not be required for repairs which become necessary in the normal course of use of such wind energy conversion facility or become necessary as a result of natural forces, such as wind or ice.

M. Sureties

1. Performance Bond – The owner of a wind energy conversion facility, after such application has been approved and before a building permit is

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issued, shall post a performance bond or other form of security acceptable to the Town Board, in an amount sufficient to cover installation, maintenance and/or construction of said tower during its lifetime and provide for its removal.

2. If transmission/distribution service from a wind energy conversion facility is to be discontinued for a period exceeding six (6) months, the owner of such wind energy conversion facility shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.
  3. Any wind energy conversion facility which has been out of active and continuous service for a period of one (1) year shall be removed from the premise to a place of sale and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such wind energy conversion facility shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within nine (9) months of the cessation of active and continuous use of such wind energy conversion facility.
  4. Insurance/Liability - Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility. The Town shall be named as an additional insured on this policy.
  5. Environmental Contamination by Oil – A performance bond will be required to deal with this situation. The owner of a wind energy conversion facility, after such application had been approved and before a building permit is issued, shall post a bond or funds to be held in escrow to cover the maximum amount necessary to ensure the cleanup of any contamination according to DEC requirements.
- N. Transfer of Facility - No transfer of any wind energy conversion facility, nor sale of the entity owning such facility including the sale of more than thirty (30) percent of the stock of such entity (not counting sales of share on a public exchange), shall occur without prior approval of the Town, which approval shall be granted upon:
1. The receipt of proof of the ability of the successor to meet all

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requirements of this local law; and

2. The written acceptance of the transferee of the obligations of the transferor under this local law.
  3. No transfer shall eliminate the liability of an applicant nor of any other party under this local law.
- O. Road Agreement - Before a special use permit can be issued by the Town Board, a Road Agreement shall be entered into by the applicant and the Town of Alexander.
- P. Host Agreement - Before a special use permit can be issued by the Town Board, a Host Agreement shall be entered into by the applicant and the Town of Alexander.
- Q. Certifications – Routine inspection report by a licensed profession engineer. An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every year thereafter, or more often if the Code Enforcement Officer or the Town Board requests it. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer, and/or designees of the Town Board.
- R. Applications Fee – To initiate the review process contemplated by this local law, including site plan review, an applicant for a wind energy conversion facility shall remit an application fee to the Town in the amount of five hundred dollars (\$500.00) per megawatt. Said sum shall not be refundable in whole or in part. The applicant shall also pay the fees and expenses of any consultant(s) used by the Town Board to assist in the review of the application. The Town Board may set up an escrow fund to receive funds in advance for payment of these fees and expenses.
- S. Special Use Permit
1. Upon final Town Board approval of a wind energy conversion facility site plan, an applicant must apply for and obtain a special use permit to operate a wind energy conversion facility.
    - a. An annual licensing fee shall be assessed based upon the megawatt capacity of the wind energy conversion facility at a rate to be determined by resolution of the Town Board.

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- b. The special use permit issued by the Town of Alexander pursuant to this section shall contain, among other things, provisions regarding the potential decommissioning of a wind energy conversion facility structures.
  - c. It shall further provide for the removal of wind energy conversion facility structures that cease to be used for their intended purpose for a period of twelve (12) consecutive months and provide security for such removal.
2. In considering whether to issue a special use permit under this section, the Town Board for the Town of Alexander shall consider the following:
- a. The approved site plan;
  - b. The aesthetic impact of the particular wind energy conversion facility depicted in the site plan;
  - c. The location of the wind energy conversion facility;
  - d. The aesthetic, physical and economic impact of the wind energy conversion facility
    - i. upon the Town of Alexander;
    - ii. upon construction of the facility in agricultural lands in accordance with NYS Agricultural and Markets guidelines;
    - iii. upon the general health and welfare of the community.
3. This law is not intended to establish or create a right to operate wind energy conversion facility but rather permits the Town Board to issue such a special use permit to operate should it be determined to do so under the terms and conditions of said law.
- T. Indemnity and Save Harmless Agreement – The applicant licensee shall agree to indemnify and save the Town, its officers, agents and employees harmless from any liability imposed upon the Town, its officers, agents, and/or employees arising from the negligence, active or passive, of the applicant.
- U. Enforcement – This section shall be enforced by the Code Enforcement Officer of

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the Town of Alexander or such enforcement officer duly empowered by the Town of Alexander.

- V. Penalties – The Code Enforcement Officer of the Town or such enforcement officer duly empowered by the Town of Alexander may assess a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) for any and all violations of this section. Each day the violation continues once notice of the same is provided to the responsibility party shall constitute a separate violation. This fee will be reviewed annually for possible adjustment.

**SECTION 619 – WIND ENERGY DEVICE**

- A. Design Requirements – Fifty-one percent (51%) of all electricity or power generated on site by a Wind Energy Device is required to be utilized on the same site with the maximum turbine power output limited to 20 KW.
- B. Location - A Wind Energy Device may only be located in A-Agricultural District as an accessory use.
- C. Setbacks – A Wind Energy Device will be required to be set back from any power line, residence, public or private building, structure, right-of-way to any road and property line a minimum distance of one and one-half (1½) the height of the proposed Wind Energy Device or a variance is granted by the Zoning Board of Appeals. This requirement is in addition to and compliance with Schedule I of this Zoning Law.
- D. Height – The maximum height of a wind energy device shall be one hundred and fifty (150) feet.
- E. A Wind Energy Device must be of monopole construction to the extent practicable. If monopole construction is not practicable, a Wind Energy Device must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a Wind Energy Device may be guyed.
1. If the Wind Energy Device is guyed, fencing will be required around each guy wire at a minimum height of seven and one-half (7½) feet.
  2. Each guy wire will be wrapped with reflective tape a minimum height of ten (10) feet.
  3. Guy wire must be a minimum distance of twenty-five (25) feet from any

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property line.

4. All electrical wires shall be located underground, to the extent practicable.

F. Application Fee

1. To initiate the review process contemplated by this Section for an applicant for a Wind Energy Device, the applicant shall remit an application fee to the Town in the amount of two hundred and fifty dollars (\$250.00) for each anticipated device. Said sum shall not be refundable in whole or in part.
2. The applicant shall pay the fees and expenses of any consultant(s) incurred by the Town to assist in the review of the application, including but not limited to engineering.