

## Chapter 205. Zoning

### § 205-1. Title.

This chapter regulates and restricts the uses of land and the locations, construction and use of buildings and structures; establishes boundaries of districts for said purposes; establishes a Zoning Board of Appeals with power to determine and vary the application of the regulations hereby established in harmony with their general purpose and intent; and provides for the enforcement of the provisions herein, all for the purpose of promoting the health, safety, economy, aesthetics, morals and general welfare of the inhabitants of the Town of New Lebanon. This chapter shall be known and may be cited by the short-form title of "Zoning Law of the Town of New Lebanon, New York."

### § 205-2. Statutory authority.

This chapter is enacted by the Town Board of the Town of New Lebanon, in the County of Columbia, under the authority and power granted by the Municipal Home Rule Law and the Town Law of the State of New York, in conformance with the Town of New Lebanon Comprehensive Plan duly adopted by the Town Board.

### § 205-3. Purposes.

This chapter is enacted to meet the goals expressed in the Town of New Lebanon Comprehensive Plan and for the following purposes:

A.

To protect and enhance scenic vistas and the Town's natural beauty and rural and small-town character;

B.

To preserve and protect the environment;

C.

To promote an environment that supports appropriate business growth and retention;

D.

To promote housing opportunities;

E.

To preserve farms and farmland;

F.

To lessen congestion in the streets;

G.

To secure safety from fire, flood, panic and other dangers;

H.

To promote health and the general welfare;

I.

To provide adequate light and air;

J.

To prevent the overcrowding of land;

K.

To facilitate the adequate provision of transportation, schools, parks and other public requirements;

L.

To enhance the value of land and buildings; and

M.

To encourage the most appropriate use of land throughout the Town.

## § 205-4. Districts, purposes and boundaries.

A.

~~A.~~ The Town of New Lebanon is hereby divided into the following districts:

RA-5 Residential-Agricultural/Conservation

RA-2 Residential-Agricultural

RA-1 Residential-Agricultural

CC Central Commercial

C General Commercial

C-Rec Commercial-Recreational

C-R Commercial-Residential

C-I Commercial-Industrial

FZ-O Flood Zone Overlay

S-O Solar Overlay

B.

District purposes. The following statements of purpose define the spirit and intent of each land use district and are to be used as guides in the interpretation and application of these regulations:

(1) Residential-Agricultural/Conservation (RA-5) District. The purpose of the Residential-Agricultural/Conservation District is to encourage agricultural operations and open space preservation and allow very-low-density residential development that is consistent with those land uses, to maintain and protect the rural and small-town character of New Lebanon, to provide for and encourage open spaces and the protection of the Town's natural resources, and to foster safe pedestrian and traffic circulation consistent with the rural character.

(2) Residential-Agricultural (RA-2 and RA-1) Districts. The purpose of the Residential-Agricultural (RA) Districts is to provide for low-density residential development consistent with goals to maintain and protect residential and neighborhood qualities and rural character, to protect the Town's natural resources, and to foster safe pedestrian and traffic circulation consistent with the rural character.

(3) Central Commercial (CC). This district represents the “town center” of New Lebanon, having the most dense concentration of commercial properties. In furtherance of the Town’s comprehensive plan, this district is intended to have vibrant, customer intensive commercial activity in order to attract residents and visitors, and to the extent feasible, create a “walkable downtown.” Residential and community-oriented uses are consistent with this downtown feel.

(4) Commercial Districts (C and C-Rec). The purposes of the commercial districts are to provide areas in the Town for retail and nonresidential development in a variety of scales and with a variety of retail uses and services to meet the needs of the community, to add to the economic base of the community, and to ensure that commercial development is consistent with the character of New Lebanon.

(5) Commercial-Industrial (C-I). The purpose of the Commercial-Industrial District is to provide a location for manufacturing, industrial and large commercial development in an area having adequate access to highways.

(6) Commercial-Residential (C-R). The purpose of this district is to maintain the historically mixed-use area on the north side of Route 20 from New Lebanon Center east to the southerly intersection of Route 20 and Route 22.

(7) Flood Zone Overlay (FZ-O). The purpose of the Flood Zone Overlay is to protect the public health and safety by regulating development in the area of Town subject to flooding as such area is identified on a map prepared by the Federal Emergency Management Agency, as such map may be amended from time to time, and to protect the important role these locations have in the environment.

~~(7)~~

8) Solar Overlay (S-O). The boundaries of the Solar Overlay District are intended to identify areas that may be appropriate for large-scale solar energy systems based on the following goals, and additional lands may be added to the Solar Overlay District by legislative action of the Town Board where consistent with the following goals:

- (a) Avoiding prime farmland;
- (b) Encouraging the productive re-use of unused or underused land formerly used for commercial excavation or similar commercial or industrial uses, and land where the potential use and development is adversely affected by real or perceived environmental contamination;
- (c) Focusing the use and development of land for large-scale solar energy systems on areas in close proximity to existing electrical grid infrastructure that is sufficient to support such systems;
- (d) Avoiding important wetlands and floodways;
- (e) Incorporating community values and priorities;
- (f) Avoiding areas intended for commercial development of labor-intensive and/or customer-oriented establishments along the Routes 20/22 corridor; and
- (g) Minimizing interference with existing viewsheds to the extent practicable.

### C.

The locations and boundaries of the zoning districts hereby established (including the S-O) are shown on a map entitled "Zoning Districts of the Town of New Lebanon," initially adopted August 9, 2010, and as amended from time to time. The FZ-O is shown on the map entitled "Flood Insurance Rate Map." The maps and all notations, references and other information shown thereon are hereby

declared to be a part of this chapter and shall be kept up-to-date in the offices of the Town Clerk for the use and benefit of the public.

D.

Where uncertainty exists as to the locations of any boundaries shown on the Zoning Map, the following rules shall apply:

(1)

Where district boundaries are indicated as following the center lines of streets, highways, railroad rights-of-way or waterways, these shall be construed to be such boundaries.

(2)

Where such boundaries are indicated as approximately following lot lines as they exist on the date of adoption of this chapter, such lot lines shall be construed to be such boundaries.

(3)

Where such boundaries are indicated to be approximately parallel or perpendicular to center lines of streets, highways, railroad rights-of-way or waterways, such boundaries shall be construed as being parallel or perpendicular thereto and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.

(4)

Where a district boundary divides a lot at the time of adoption of said boundary lines, the regulations for the less-restricted portion of such lot shall apply to the remainder of said lot up to a distance of not more than 50 feet from said boundary line.

## § 205-5. General regulations; incentive zoning.

A.

No building or part thereof shall be erected, moved or structurally altered, nor shall any building or lands be used or occupied, except in conformity with the regulations of this chapter, herein specified for the district in which such building or land is located. The regulations herein are deemed to be specific. Those uses and structures for which there are no specific provisions in this chapter shall be deemed to be prohibited. Any use not specified as permitted or allowed by a special permit for any district as per the Use Schedule is prohibited. Notwithstanding the foregoing, uses identified as permitted or allowed by special permit in the Solar Overlay District shall supplement and be in addition to uses that are otherwise permitted or allowed by special permit in the applicable underlying zoning district.

B.

No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building or use on the same or any other lot.

C.

No lot shall be formed from part of a lot already occupied by a building unless such building and all yards and open spaces connected therewith on the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.

D.

Incentive zoning.

(1)

Statement of policy. Pursuant to § 261-b of the New York State Town Law, the Town of New Lebanon hereby establishes a policy of encouraging the preservation of open space and agricultural lands and the provision of facilities and amenities that would benefit the Town by providing incentive(s) to applicants seeking approval of a subdivision plat.

(2)

Purpose. The purpose of the Town's system of incentive zoning is to advance the goals and policies expressed in the Town's Comprehensive Plan. As set forth below, the Town Board has established standards for the proper application of incentive zoning and the specific findings the Planning Board shall make prior to approving an adjustment to the maximum unit density requirements of this chapter.

(3)

Grant of authority. In considering an application for approval of a subdivision, the Planning Board is hereby authorized to adjust the maximum density requirements of the zoning district in which the property is located in exchange for one or more of the specifically identified benefits and in accordance with the standards and conditions set forth below.

(4)

Applicability. The incentives set forth herein shall be applicable to land parcels zoned residential and for which an application for approval of a subdivision pursuant to the Subdivision Law has been filed.

(5)

Incentives. Notwithstanding any contrary provision of this chapter that limits or restricts the maximum unit density of a proposed subdivision, for the permanent preservation in its undeveloped state of not less than 50% of the gross land area of a proposed subdivision, including, but not limited to, active agricultural lands and areas having prime soils or statewide important soils, a thirty-percent increase in the maximum unit density for the zoning district may be approved. The calculation of the incentive is based on the maximum density for a proposed subdivision as determined by the Planning Board pursuant to § **205-7B(10)**.

(6)

Findings. Before approving an adjustment to the maximum unit density requirements of this section in exchange for the identified benefits, the Planning Board shall make the following specific findings:

(a)

That the proposed adjustments would not have a significant adverse impact on the property or to adjoining property or to the neighborhood in which the property is situated.

(b)

That the open space protected pursuant to this section would maximize conservation or agricultural value.

(c)

That proper easements, surety or performance guarantees between the applicant and the Town or an authorized land preservation trust ensuring the permanent preservation of the land to be preserved in its undeveloped state, covering future title, dedication and provisions for the costs of land or improvements, are or will be in existence as of the date the final plat map is signed by the Chairman of the Planning Board.

(d)

That the proposed adjustments would not adversely affect the public health, safety or welfare or those of the residents of the project or neighboring lands.

(e)

That the necessary water and septic requirements can be met with the proposed density adjustments.

## § 205-6. District regulations.

The following requirements apply to uses within the specified districts in addition to all other applicable requirements:

### A.

Regulations specific to Residential-Agricultural/Conservation District (RA-5).

#### (1)

The use of a conservation subdivision plan in this district is specifically required when the parcel contains, in whole or in part, one or more of the following:

##### (a)

State and/or federal freshwater wetlands occupy 25% or more of the site.

##### (b)

Slopes of greater than 20% occupy 25% or more of the site.

##### (c)

The site contains a floodplain or flood hazard area as mapped by the Federal Emergency Management Agency's Flood Insurance Maps.

##### (d)

The site contains a critical environmental area designated pursuant to 6 NYCRR 617.14(g).

##### (e)

The site contains an identified scenic view or scenic vistas.

##### (f)

The lot or parcel is under a DEC Forestry Management Plan.

### (2)

All development within the Residential-Agricultural/Conservation District should incorporate smart or "low-impact development" procedures to reduce the impact of new growth. Components of these procedures include, but are not limited to:

#### (a)

Limit total impervious surface coverage.

#### (b)

Retain and incorporate natural site features that promote infiltration of stormwater on a developed site.

#### (c)

Use bioretention, pervious surfaces, open space surface water dispersion, soil restoration, and other dispersed facilities to control stormwater as close to the origin as possible.

#### (d)

The use of traditional conveyance and pond technologies to manage stormwater quality and quantity should only be considered after all other low-impact development techniques have been considered and used to the greatest extent possible.

### (3)

The appropriate Board may specify the location of the building envelope, to preserve trees or other resources, take advantage of soil conditions, or make the development more rural in character. In major subdivisions, building envelopes should be moved to provide irregular spacing of buildings and

to break up the linearity of the street facade of buildings. The building envelope shall be recorded on the final plat in lieu of setback lines.

(4)

Other rural siting guidelines.

(a)

Encourage the integration of new subdivisions with the surrounding existing neighborhoods and rural character. The site layout of new development should protect roadside views and ensure that home sites blend into the landscape to the greatest extent possible.

(b)

Retain existing tree rows and hedgerows, stone walls, and similar features in the development of any new use or the expansion of any existing use.

(c)

New buildings adjacent to significant historic structures should be designed in a manner that harmonizes with the general architectural features of such historic structures in terms of form, materials, fenestration, and roof shape.

(d)

New streets should be designed with rural characteristics, including minimal tree clearing, minimal grading and filling of existing topography, and usage of natural drainage where practicable. Reuse farm roads or country lanes whenever possible.

(e)

The Planning Board is authorized to identify a building envelope placement during site plan or subdivision review. Placement of new structures in the center of former agricultural fields should be minimized. Hedgerows and other natural features should be incorporated into the layout.

(f)

Major modifications to the existing landscape such as extensive grading, clear-cutting of trees, or other similar activities shall be avoided.

(g)

Streets should be designed to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel. Road design should reflect the context and characteristics of the area. The use of narrow roads, similar to existing country routes, is encouraged. Utilize street trees to provide shade and separate the roadway from pedestrians.

(h)

Minimize the number of curb cuts on existing roads and utilize shared driveways, linked/shared parking where possible.

B.

Residential-Agricultural District (RA-2, RA-1).

(1)

In addition to the regulations in Subsection A. above, the Planning Board shall encourage 50% of the parcel to remain as open space by clustering lot layouts.

(2)

Conservation subdivisions. The Planning Board is authorized to allow or require adherence to the requirements of the Subdivision Law (Chapter 179 of the Code of the Town of New Lebanon) regarding clustering and open space preservation for all subdivision applications in these zoning

districts where, in the opinion of the Planning Board, the purposes of this chapter cannot be met under conventional subdivision methods.

C.

Regulations specific to the Commercial Districts (C, C-Rec, C-I). In addition to the design guidelines established in § **205-8E**, the following guidelines shall be considered by the Planning Board in the site plan and subdivision review of any commercial use in these districts:

(1)

The development of public parks, commons, or pedestrian plazas with amenities such as benches and landscaping should be encouraged.

(2)

Where practicable, existing tree rows and hedgerows, stonewalls, and similar features should be retained in the development of any new use or the expansion of any existing use.

(3)

Where practicable, new buildings should be designed in a manner that harmonizes with the general architectural features of the traditional and rural nature of New Lebanon in terms of form, materials, and fenestration and roof shape.

(4)

All new streets shall be designed to permit the installation of electric, water, sewer, and gas utilities underground, either initially or at the time major improvements or upgrades are made to the street or the particular service.

(5)

Cross-easements shall be used to provide shared access to parking whenever possible.

D.

Regulations specific to the Commercial-Residential District (C-R).

(1)

Residential uses shall be subject to the requirements applicable to the same uses in the RA-1 Residential-Agricultural District.

(2)

Commercial uses shall be subject to the requirements applicable to the same uses in the C General Commercial District.

E.

Flood Zone Overlay (FZ-O). All uses and structures located in the Flood Zone Overlay District shall comply with Chapter **113** of the Code of the Town of New Lebanon.

## § 205-7. Area and bulk regulations.

A.

Regulations governing lot area and lot width; front, side and rear yards; and building coverage are as specified in Schedule 1. The regulations appearing in Schedule 1 are subject to the supplementary regulations of § **205-8** and additional regulations as follows:

B.

Additional area regulations.

(1)

Lots of less-than-required dimensions. Nothing contained herein shall prohibit the use of a lot of less than the prescribed area, width or depth, when such lot is owned individually or separately from any adjoining tract at the time of enactment of this chapter, provided that all other provisions of this chapter are met. The Planning Board is authorized to vary residential lot width, depth and/or area for conservation subdivisions.

(2)

Corner lot. On a corner lot in any district where a front setback is required, a setback shall be provided on each street equal in depth to the required front setback on such streets. One rear setback shall be provided on each corner lot, and the owner shall designate the rear setback on the application for a zoning permit. In no case shall the designated rear lot width be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of this chapter, to less than 24 feet.

(3)

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 three 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.

(4)

Walls, fences and hedges. The following standards shall apply to fences, walls and hedges for all uses in all districts:

(a)

Exemptions.

[1]

These fence, wall and hedge regulations shall not apply to agricultural fencing, walls or hedges or temporary safety fencing erected during construction activities approved by the Town; provided, however, that the requirement specified in Subsection B(4)(b)(2) concerning sight distance at intersections or rights-of-way and street corners shall apply to all forms of fences, walls or hedges. For purposes of this section, the term "agricultural fencing" shall include any fence constructed on a farm operation or constructed to enclose a residential garden.

[2]

The Town Building Inspector may authorize a retaining wall in excess of the foregoing height limitation when it is determined that the same is necessary for the proper safety and preservation of persons or property.

(b)

Location.

[1]

Fences, freestanding walls and hedges and all supporting structures must be entirely on the property of the party erecting the fence.

[2]

Fences and freestanding walls shall not obstruct sight distance at intersections or rights-of-way and shall comply with required setbacks at street corners.

[3]

Any fence, freestanding wall or hedge built along an adjacent lot shall be installed interior from the lot line with a two-foot setback to provide for maintenance and lawn or field mowing. Lawns and other

growth shall be maintained by the property owner to the property line in accordance with New York State Property Maintenance Code.

(c)

Height.

[1]

Fences or freestanding walls within a front yard, in a side yard or rear yard shall not exceed six feet in height unless approved or required by a board as part of an application for a special use permit or a site plan review.

[2]

A maximum of 10 feet in height shall be allowed to enclose a private or public tennis court, basketball court, or sports courts, provided that the fence is not more than sixty-percent opaque, and meets setback requirements.

(d)

Materials and construction.

[1]

All fences and freestanding walls shall be constructed and installed in accordance with the generally accepted standards of good workmanship and any applicable manufacturer's specifications.

[2]

All fences and freestanding walls shall be maintained in a structurally sound condition, and components or finishes that become deteriorated shall be repaired or replaced promptly.

[3]

Canvas, cloth, wire mesh, snow fencing, chicken wire, pallets, plywood or any other material of a nonstructural nature may not be used as fencing material or as any part of fence. The use of any fencing material, or device, intended or which is likely to cause harm or injury to humans is prohibited. Examples of materials prohibited in this section include, but are not limited to, broken glass or electrification. All fences require a zoning permit unless they are exempt under § **205-7B(4)(a)[1]**.

[4]

All fencing that has a discernible finished side must be installed or constructed so the finished side faces to the exterior of the lot center.

[5]

Retaining walls visible from the public right-of-way should be faced with masonry or other decorative screening, textures, design, or landscaping to minimize the blank appearance of walls and ensure compatibility with existing structures.

(5)

Accessory structures. For accessory structures under 144 square feet which do not require a building permit, the required setback shall be 10 feet from the side and rear property lines, and the accessory structure must meet the front yard setback for the zoning district in which it is placed.

(6)

Where there is proposed to be more than one principal building on a single lot, the buildings shall be located on the lot in a manner so that all of the minimum area regulations governing building location are met by all principal buildings. Specifically, the structures shall be located so the minimum lot size and width requirements, minimum front, side and rear yard requirements and lot coverage maximums are met.

(7)

One-hundred-foot setback from lake or stream. No building, building envelope, septic tank, or tile field shall be located closer to a stream, creek or other body of water, except that on existing undersize lots where this requirement cannot be met, the septic tank and tile field shall be located as far from the water as possible, but in no case less than 50 feet away. Open porches and decks attached to a residence shall be exempt, providing all other requirements can be met, and provided that such porch or deck shall not be enclosed.

(8)

Height exceptions. District building height regulations shall not apply to flagpoles, radio or television antennas, electric transmission towers or cables, wind electric-generating equipment installed by a residential customer generator or a farm customer generator in compliance with New York State Public Service Law § 66-l, spires or cupolas, chimneys, elevator or stair bulkheads, parapets or railings, or water tanks or cooling towers, provided that such structures in their aggregate coverage occupy no more than 10% of the roof area of the building. Barns, grain elevators and silos may exceed height limitations of this chapter, provided that for each one foot such structure exceeds 35 feet, the minimum yard requirements shall be increased by one foot but in no case may exceed 100 feet. The Planning Board may, as part of site plan review, waive height restrictions for wind electric-generating equipment installed for use in a commercial or industrial use.

(9)

Structures in required yards.

(a)

The following accessory structures may be located in any required yard except where such constitute a permanent obstruction in a required front yard in any district:

[1]

Chimneys and pilasters;

[2]

Open arbor or trellis;

[3]

Unroofed steps, patio or terrace not less than 20 feet from the highway right-of-way;

[4]

Awning or movable canopy not to exceed 10 feet in height;

[5]

Retaining wall, fence or masonry wall;

[6]

Overhanging roof not in excess of 10% of the required front yard depth.

(b)

An accessory structure, except as allowed herein, shall not be located within the minimum front yard setback.

(c)

The following accessory structures may be located in any side or rear yard, subject to the limitations contained herein:

[1]

Solar energy collection devices shall adhere to the setbacks applicable to structures in the zone in which they are located and shall not be located in the front yard of any lot.

[2]

Permitted accessory buildings, provided that all the following criteria are met:

[a]

No such building shall exceed the average height of the principal structure on the lot;

[b]

No such building shall be set back less than 10 feet or the height of the accessory structure, whichever is greater, from any lot line;

[c]

All such buildings in the aggregate shall not occupy more than 30% of any required yard;

[d]

No such building shall project closer to the fronting street than the minimum front yard setback; and

[e]

Not more than two such accessory structures, other than a permitted sign or satellite antenna, of which no more than one shall be a private sign or a private garage, shall be permitted by right on an individual lot. In the event the lot exceeds two acres, any additional accessory structure may be allowed by a special use permit.

(10)

Calculating density. The maximum permitted number of dwelling units shall be determined based on buildable area. This is determined by deducting from the total tract area the following features and then applying the density required for that district:

(a)

Land contained within public rights-of-way;

(b)

Land contained within the rights-of-way of any existing or proposed streets;

(c)

All areas occupied by public utility easements; and

(d)

All floodplains, regulated wetlands, slopes of 25% or greater, and water bodies located on the property.

## § 205-8. Supplementary regulations.

A.

Motor vehicle storage.

(1)

Unregistered vehicles in the Town of New Lebanon, other than farm equipment on an active farm, shall be stored in an enclosed building or behind fencing adequate to conceal them from public view. A maximum of two unregistered motor vehicles (each not exceeding 25 feet in length) may be parked or stored outside on any lot, but limited to the side or rear yard, unless specifically indicated as "for sale." Junk vehicle lots are prohibited.

(2)

No junk storage area shall be located within 250 feet from the following: any adjoining property line; any public park, church, educational facility, nursing home, public building or other place of public gathering; any river, stream, lake, pond, wetland or other body of water; or the right-of-way of a public road.

B.

Water recreation, water storage and ponds. The accessory use of land for water recreation or water storage such as swimming pools (whether aboveground or in-ground), ponds, or open outdoor water storage tanks shall comply with the following requirements:

(1)

All swimming pools, open outdoor water storage tanks, and other water recreation or water storage shall comply with setback requirements.

(2)

Drainage of a swimming pool, pond, open outdoor water storage tanks or other water recreation or water storage shall not interfere with any public or private water supply, existing sanitary facilities or surrounding properties.

(3)

An aboveground swimming pool or other aboveground storage structure shall be located so that there is no danger to surrounding properties or water supply or sewerage systems in the event of a break of the container.

C.

Manufactured homes and compact homes.

(1) A manufactured home or compact home installed in the Town of New Lebanon shall be installed in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code.

(2) A manufactured home shall be securely located on and permanently affixed to a concrete pad or foundation. A compact home shall either be securely located on and permanently affixed to a concrete pad or foundation, or otherwise properly anchored using an approved anchoring system for manufactured homes or mobile homes.

(3) All foundations, undercarriages, wheels, and/or anchoring systems of a manufactured home or compact home, as applicable, shall be closed by a skirt securely fastened and extending from the outside wall of the home. The skirt shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding weather conditions. No skirt shall be required where a perimeter foundation fully encloses the area between the unit and the ground level. Skirting must be installed within 10 days of installation of the home.

(4) Any lot containing a manufactured home or compact home shall meet applicable area and dimensional requirements.

(5) A permit may be granted to the owner of a farm located within a certified New York State agricultural district to allow placement of not more than two manufactured homes and/or compact homes to be occupied only by full-time farm workers and their families employed by the owner and provided that the such homes are located on a lot of at least 100 feet by 150 feet and are no closer than 40 feet to the farmhouse and any farm building. All water and septic system requirements for single-family homes shall be met.

(6) Manufactured homes and compact homes shall be considered and treated as a single-family structure.

D.

Driveways.

(1)

A driveway permit from the Town is required for access to Town roads. Driveway cuts not installed by the Town Highway Department must meet the standards of Appendix B of Chapter **179** of the Code of the Town of New Lebanon.

(2)

Access by emergency vehicles to all buildings is required.

(3)

The minimum driveway width shall be 12 feet and of suitable alignment to allow for access by emergency vehicles. Driveways shall be constructed with a minimum of six inches of run-of-bank gravel and crowned in the middle.

(4)

Driveways shall intersect roads at approximately a ninety-degree angle but in no case less than 70°. The intersection of the road and driveway shall be connected with a minimum radius of 20 feet, and the first 50 feet from the edge of shoulder shall not be steeper than 3%. The driveway grade shall not exceed 10%. Lengths of drive at ten-percent grade shall be interrupted by flatter slopes every 500 feet.

(5)

Adequate ditches and culverts shall be provided to accommodate drainage. Where driveways cross road ditches, an approved culvert not less than 15 inches in diameter shall be provided. The driveway shall not increase runoff onto the existing road unless approved by the Town Engineer.

(6)

In order to minimize curb cuts onto existing or proposed roads, to maintain vegetated buffers along existing roads, and to preserve open space and rural character, the Planning Board may accept or require adjoining lots to utilize a shared driveway or two adjoining driveways with a single curb cut. Shared driveways or accessways are preferred over multiple curb cuts. The Planning Board shall require that an offering plan be filed or a no-action or similar determination letter be obtained from the New York State Department of Law whenever there is a common interest in real property such as a shared road or driveway.

(7)

The Planning Board, upon recommendation of the Highway Superintendent, may also designate curve radii for driveway intersections with the street and may require special provisions to assure visibility.

E.

Commercial building layout and design guidelines. The standards listed below are intended to establish an appropriate contextual character for all new commercial, industrial, and multifamily residential development within the Town of New Lebanon, including modification and/or expansion of existing buildings and uses. New buildings are expected to respect and complement the tradition of New Lebanon's rich history. The applicant shall be expected during the Planning Board's site plan review, subdivision approval or special use approval process to demonstrate the appropriateness of the specific design and material elements selected to conform to these design guidelines. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals. It is not the intent to discourage contemporary architectural expression but to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures with existing.

(1)

The side of the building that provides frontage for the lot on which the building is located should be aesthetically compatible with, but not necessarily the same as, the surrounding area.

(2)

Parking areas should be located away from the road or behind structures.

(3)

Drive-up windows for any proposed or existing land use, where allowed by lot configuration, should be placed at the rear of the building. Adjacent properties shall be screened from any glare from vehicles or building lights resulting from use of a drive-up window.

(4)

In order to control traffic, the Planning Board may require, where appropriate, reductions in lane widths, use of shared access drives, shared parking lots, and rear service road connections.

F.

Conservation subdivisions.

(1)

Permitted, accessory and special permit uses. Permitted, accessory and special permit uses within a conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located.

(2)

Density. Except as authorized by the Planning Board pursuant to § **205-5D**, the permitted number of dwelling units shall not exceed the number of units that would be permitted as calculated in conformance with § **205-7B(10)**.

(3)

Unit mix. The conservation subdivision design may include a mix of single-family and multifamily dwellings as a means of achieving housing diversity and preserving open space if such multifamily dwellings are allowed in the district. Within the conservation subdivision, the number of multifamily units shall be limited to not more than 1/3 of the total number of dwelling units.

(4)

Conservation subdivision design and review process is set forth in Subdivision Law (Chapter **179** of the Code of the Town of New Lebanon).

G.

Short-term rentals. A short-term rental that would include use or occupancy of any existing or previous ADU shall not be permitted for a period of three years from the date a final certificate of occupancy was issued for such ADU. If a short-term rental is not occupied by the owner/operator, the owner/operator shall provide the Zoning Enforcement Officer with the name, telephone number, and email address of a contact person who must reside within 20 miles of the property and who must be authorized to act and receive notices and process on behalf of the owner/operator with respect to the property. Updated contact information shall be provided to the Zoning Enforcement Officer whenever the name, telephone number, or email address of such contact person changes, and not less than annually.

H.

Food trucks. All food trucks shall comply with the following standards:

(1)

The size of a food truck shall not exceed 256 square feet, measured from the exterior faces of the food truck.

(2)

The minimum lot size on which one or more food trucks may operate is 1/2 acre.

(3)

Prior to commencing food truck operations, the food truck operator shall obtain and maintain a Columbia County Department of Health permit where required, and shall operate the food truck in conformance with all applicable Department of Health regulations.

(4)

Prior to commencing food truck operations, the Code Enforcement Officer shall conduct an inspection to determine compliance with all applicable requirements under the New York State Uniform Fire Prevention and Building Code.

(5)

Prior to commencing food truck operations, the food truck operator shall obtain the written consent of the property owner to conduct food truck operations on such property. Such written consent shall be maintained on-site at all times.

(6)

No food truck may operate on any property that remains in violation of any provision of this chapter, Chapter **81** of the Code of the Town of New Lebanon, or the New York State Uniform Fire Prevention and Building Code following the issuance of one or more notices of violation, stop-work orders, orders to remedy, appearance tickets, or other enforcement devices.

(7)

Nothing in this chapter shall be construed as permitting operation of food trucks on publicly owned property or on any public highway.

#### I. Accessory Dwelling Units (ADUs)

(1) In furtherance of allowing more efficient use of existing lots and buildings and to expand housing opportunities within Town, while maintaining the existing residential character of neighborhoods, the provisions of this Paragraph I of Section 205-8 shall govern Accessory Dwelling Units (ADUs) where permitted.

(2) Notwithstanding anything to contrary contained within Section 205-14 of this chapter, site plan review and approval shall be required prior to placement, construction, operation, use and occupancy of an ADU where the parcel on which the ADU is to be sited is less than twice the minimum lot size applicable within the district, except that site plan review and approval shall not be required where the ADU is to be located wholly within the existing footprint of the principal structure on the lot.

(3) An ADU approved and operated in accordance with this Paragraph I shall be considered an accessory use and shall not be considered an additional dwelling unit for purposes of calculating the density of the lot upon which it is located.

(4) No more than one ADU shall be permitted on any lot.

(5) An attached or detached ADU shall constitute an accessory structure for purposes of determining compliance with the limit on the number of accessory structures on a lot pursuant to Section 205-7 (B) (9) [2] [e].

- (6) An ADU may be constructed or installed concurrently with or after construction of the principal dwelling on the lot upon receipt of all applicable approvals therefor.
- (7) The living area of an ADU shall not exceed 50% of the living area of the principal dwelling or 800 square feet, whichever is less.
- (8) The height of an ADU shall not exceed the average height of the principal dwelling.
- (9) To the extent not inconsistent with this paragraph I of section 205-8, an ADU shall conform to those requirements of paragraph C of section 205-8 of this chapter (manufactured homes and compact homes) that are otherwise applicable.
- (10) Where applicable, all towing devices, wheels, axles and hitches shall be removed from the ADU.
- (11) Any ADU constructed or manufactured off-site shall remain detached from the principal dwelling and any other structure on the lot.
- (12) An ADU may be included on an existing lot that does not otherwise comply with the minimum lot size applicable within the district only where the inclusion of the ADU does not create or increase any other nonconformity on the lot with respect to applicable area and bulk regulations.
- (13) An ADU on a lot of 4,000 square feet or larger shall not occupy more than 15% of the total lot area, provided, however, that an ADU built wholly within the footprint of an existing legal accessory structure that exceeds this limit shall be permissible.
- (14) ADU Setbacks.
  - (a) Except as otherwise provided herein, all ADUs shall conform in all respects to front, side, and rear yard setback requirements applicable within the district.
  - (b) Notwithstanding subparagraph (a) above, an ADU may be constructed and operated within an existing lawful structure that does not conform to one or more setback requirements, or in a new structure that replaces an existing lawful structure that does not conform to one or more setback requirements provided that the new structure is constructed wholly within the footprint of the existing lawful structure.
  - (c) Notwithstanding subparagraph (a) above, an ADU that is attached to or constitutes an addition to a lawfully existing nonconforming structure shall not encroach any closer to lot lines or further into any required yards or setbacks than the lawfully existing nonconforming structure.
  - (d) No ADUs, whether detached or attached, shall be permitted in the front yard. For purposes of applying this provision, the location of the front yard shall be determined without reference to any ADU.
- (15) In addition to the off-street parking spaces otherwise provided for the principal structure, one off-street parking space shall be provided for the ADU.
- (16) An ADU shall not be used as a short-term rental as defined and regulated in this chapter for a period of three years from the date a final certificate of occupancy is issued for the ADU.

(17) Exterior stairs and fire escapes serving an above-grade ADU shall not be located on the front of the principal structure or accessory structure, except to the extent required by the New York State Uniform Fire Prevention and Building Code.

(18) No building permit or zoning permit shall be issued for an ADU until the proposed method of water supply and sewage disposal is approved.

(19) An ADU shall comply with all applicable provisions of the New York State Uniform Fire Prevention and Building Code.

## § 205-9. Off street parking and loading.

### A.

Off-street parking. Off-street parking space shall be required for all buildings constructed after the effective date hereof, and no off-street parking or loading area shall be constructed or provided until a site plan describing such parking and loading improvements has been approved by the Planning Board.

#### (1)

Each off-street parking space shall consist of at least 180 square feet with a minimum width of eight feet.

#### (2)

In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified below.

#### (3)

The Planning Board shall determine reasonable and appropriate off-street parking requirements based on the guidelines set forth below. The number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. In determining the parking requirements for any proposed use, the Planning Board shall consider the maximum number of persons who use the parking lot at times of peak usage. The recommended number of spaces for off-street parking is detailed below. For structures and uses which do not come within the following guidelines, the Planning Board shall determine reasonable parking requirements, taking into consideration all factors entering into the parking needs of each such case as part of their site plan or special permit study and review.

#### (4)

Where practicable, all off-street parking shall be located to the rear or side of the building and to the rear of the front building line of the building it serves. Where it is not practicable to locate off-street parking in this manner, the Planning Board may require screening of such parking, such as with a stone wall, landscaped berm, and/or landscaping sufficient to effectively screen from view the automobiles parked therein when viewed from the street or walkway.

#### (5)

No improvement that is a part of any off-street parking facility shall be located closer than five feet from any lot line exclusive of any driveway providing access for such facility.

#### (6)

Parking shall not dominate any site when viewed from the street providing frontage for such site. No off-street parking shall be located within any required open space.

(7)

Large uninterrupted areas of parking stalls that significantly reduce the continuity or quality of natural open space shall not be permitted. Off-street parking shall be developed as small (6,000 square feet to 12,000 square feet), well-distributed and landscaped areas, interconnected by driveways and walkways that provide visual relief.

(8)

All parking stalls shall be provided with a backup and maneuvering aisle.

(a)

When ninety-degree angle parking is used, the stall length and aisle width, when combined, shall provide a clear uninterrupted dimension of at least:

[1]

Sixty feet when stalls are located along both sides of the aisle.

[2]

Thirty-five feet when stalls are located along one side only of the aisle.

(b)

Parking designs with angle parking less than 90° may have shorter total dimensions of stall and aisle as the Planning Board finds appropriate.

(9)

All off-street parking shall be graded and maintained to the extent necessary to avoid nuisances of dust, erosion or excessive stormwater flow onto or across walkways, streets or adjacent lands.

(10)

All off-street parking for more than five vehicles shall be marked in accordance with generally accepted standards or applicable regulations to identify individual parking stalls, maneuvering aisles, pedestrian crossings, handicap spaces, entrances, exits, vehicle movement and fire lanes.

(11)

Any off-street parking for 20 or more vehicles should provide curbed planting islands or beds within the parking area equal in total area to 15% of the total square footage of all stalls and aisles.

(12)

Guide to off-street parking.

<b>Guide to Off-Street</b>	
<b>Use</b>	<b>Spaces</b>
Dwellings	1 space for e
Boardinghouse, tourist home, motel, hotel, short-term rental	1 space for e
Administrative, professional nonprofit, governmental	1 space for e
Funeral home	10 spaces, pl
Church or temple	1 space for e
School: elementary, junior high	1 space for e

Use	Spaces
School: senior high	1 space for e
Theater or other place of assembly	1 space for e
Nursing or convalescent home	1 space for e
Retail store or bank	1 space for e
Clubs and restaurants	1 space for e
Bowling alley	5 spaces for c
Industrial or manufacturing	1 space for e
Skating rink or dance hall	1 space for e
Automobile racing facility	1 space for e
Barbershop or beauty parlor	1 space per c
Cleaner or tailor	2 spaces for c
Professional offices	Adequate spa
All other uses	Same as for p

**B.**

Off-street parking landscaping.

**(1)**

All parking lots for more than 10 cars shall be landscaped. Any planting bed located within a parking lot should contain at least one tree and such other plant materials as are recommended by a landscape design professional, architect or engineer for such location for purposes of establishing vertical interruption and definition to vehicular movement.

**(2)**

Any required street parkway or median should include trees, shrubs, ground cover and grass as appropriate to minimize impervious materials and to provide definition for any walkway contained therein.

**C.**

All open parking areas shall be properly drained.

**D.**

Required parking spaces may be provided in areas designed to jointly serve two or more establishments, whether or not located on the same lot, and the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

**E.**

When any lot contains two or more uses having differing parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total number of parking spaces required for that use with the least requirement.

**F.**

Lighting in parking lots. The Planning Board may require that lighting in parking lots be extinguished within one hour of the end of closing. Building security lights on motion detector switches are acceptable. Parking areas in which lights are necessary all night shall be lighted in a manner that does not result in glare to adjacent residential properties or cause traffic hazards due to glare.

G.

Future parking. The Planning Board may require that an applicant set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be landscaped but may not be used in a manner that would prevent it from being used for parking in the future.

H.

Shared parking. When feasible, all parking areas should be designed to allow linkages to adjacent developments to promote efficient traffic flow and encourage shared parking areas to reduce the use of land for parking and development costs and impacts associated with impervious surfaces. Internal areas between buildings in a development should incorporate shared parking areas. In cases where two or more developments are adjacent, the Planning Board may require cross-access easements between adjacent parking lots to provide for interconnected parking and to facilitate traffic and control access on the main road. Shared parking facilities are encouraged.

I.

Floor areas for the purposes of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of the building, excluding basement, cellar and attic areas used primarily for storage or service.

J.

Off-street loading. At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered. Space for off-street loading shall be in addition to space for off-street parking. Such space shall not be less than 12 feet wide, 33 feet long and 14 feet in height when covered. Loading docks shall be placed behind or on the side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent glare, noise, or exhaust fumes and shall prevent direct views of the loading areas from the public rights-of-way. Screening can also be achieved through use of walls or fences.

## § 205-10. Nonconforming uses and buildings.

A.

Continuation. A nonconforming use, building or structure that existed lawfully at the time of enactment of this chapter or amendment thereto may be continued, subject to the regulations that follow in this section. In order to constitute a lawful nonconforming use, the use must be active at the time of the enactment of this chapter or the amendment thereto.

B.

Restoration. A nonconforming building, or a building or structure devoted to a nonconforming use, destroyed or damaged by fire, wind, explosion, structural failure or other natural causes may be repaired or rebuilt to its original exterior dimensions. The restoration of said building must be initiated within one year of the date of destruction or damage.

C.

Nonconforming use.

(1)

Extension, expansion, alteration. The nonconforming use of the land shall not be enlarged or extended beyond the size of the use or the area of land occupied by such use at the time of the adoption of this

chapter or amendment thereto. 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.

(2)

Changes. A nonconforming use of a building or land may not be changed except to a conforming use. When so changed, the nonconforming use may not be resumed thereafter.

(3)

Discontinuance. A nonconforming use of land, buildings or structures, or a portion thereof, which has been abandoned or discontinued for a period of 12 consecutive months shall not be reestablished, and any subsequent use shall conform to the use regulations of the district in which the premises are located.

D.

Nonconforming buildings.

(1)

Additions. A nonconforming building may be added to or enlarged so long as the addition does not make the building any more nonconforming, except as provided in Subsection **D(3)** of this section.

(2)

Alterations and repairs. Maintenance and repairs required to keep a nonconforming building or structure in sound condition shall be permitted. However, no structural alterations shall be made to a nonconforming building or structure, unless such alterations are required by law.

(3)

Additions and alterations that would make a nonconforming building more nonconforming can be made only upon grant of an area variance pursuant to § **205-12**. In considering an application for an area variance from the owner of a nonconforming building, the ZBA shall consider the extent, nature and impact of the nonconforming aspects of the existing building as well as those related to the proposed enlargement pursuant to § **205-12C(3)**.

## **§ 205-11. Zoning administration and enforcement.**

A.

Zoning Enforcement Officer.

(1)

The provisions of this chapter shall be administered and enforced by a person designated by the Town Board as the Zoning Enforcement Officer, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. No zoning permit or certificate of occupancy required hereunder shall be issued by the Zoning Enforcement Officer except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of § **205-12**.

(2)

The Zoning Enforcement Officer shall submit a monthly report which includes a list of all permits issued or denied, as well as a complete list of all cases which are, as of the report date, pending further action, to the Town Board, Planning Board and Zoning Board of Appeals. Said report shall be submitted on a form promulgated by the Town Board in cooperation with the Planning Board and Zoning Board of Appeals.

(3)

The Zoning Enforcement Officer and the Deputy Zoning Enforcement Officer, if the Town Board appoints a deputy, shall be appointed by the Town Board and shall receive such compensation as such Board shall determine.

(4)

Should the Zoning Enforcement Officer or deputy be in doubt as to the meaning or intent of any provision of this chapter or as to the location of any district boundary line on the Zoning Map or as to the propriety of issuing a zoning permit or a permit of occupancy in a particular case related to the provisions of this chapter, he shall address the matter to the Board of Appeals for interpretation.

B.

Zoning permit.

(1)

No building shall be erected, moved, structurally altered, added to or enlarged, no land use activity or buildings shall be established or changed and no excavation for any building shall begin unless and until a zoning permit has been issued by the Zoning Enforcement Officer.

(2)

Applications for zoning permits shall be submitted on a form or forms provided by the Zoning Enforcement Officer. The Planning Board, Assessor and Town Clerk shall maintain copies of all permits issued. Each application shall set forth the purpose for which the building or land is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot and building and dimensions of required and proposed yards. The Zoning Enforcement Officer may require additional information other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use and the use of the land are in conformity with the provisions of this chapter.

(3)

If the Zoning Enforcement Officer or deputy should mistakenly issue a zoning permit which violates the provisions of this chapter, such zoning permit shall be invalid.

(4)

Fees. Each application for a zoning permit shall be accompanied by a fee in accordance with the fee schedule set by the Town Board by resolution.

C.

Certificate of zoning compliance. A certificate of zoning compliance may be obtained from the Zoning Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The Zoning Enforcement Officer shall make an inspection of each building or lot for which a zoning compliance certificate has been applied for before issuing such certificate. Such inspection shall be made within 10 business days from the date of application. Failure to make such inspection and determination within the specified period of time shall be deemed to be approval of the application for a certificate of zoning compliance.

D.

Violations and penalties.

(1)

Complaints.

(a)

Any person may file a written complaint regarding a violation of this chapter with the Zoning Enforcement Officer.

(b)

Within 10 days of the filing of a written complaint, the Zoning Enforcement Officer shall, in writing addressed to the complainant, acknowledge receipt of the complaint, provided that the complainant has provided his or her mailing address to the Zoning Enforcement Officer at the time of the filing of the complaint.

(c)

All such filed written complaints shall be investigated by the Zoning Enforcement Officer and a report prepared thereon and action instituted where appropriate within 30 business days.

(2)

Procedure with respect to violations.

(a)

Where a violation of this chapter is determined to exist, the Zoning Enforcement Officer shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure, or lot where such violation has been committed or exists, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or exists; and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure or lot in which any such violation exists.

(b)

Such notice will require the removal of the violation within 30 days after the service of the notice.

(c)

In such cases where the removal of the violation within the 30 days would be manifestly impossible, the Zoning Enforcement Officer shall apply to the Town Board for a determination as to a reasonable period of time within which such violation shall be removed.

(d)

If those persons notified shall fail to remove such violation within the allotted time period, the Zoning Enforcement Officer shall charge them with such violation of this chapter.

(e)

The Zoning Enforcement Officer is hereby given the authority to issue appearance tickets directing any such person to appear in the Justice Court of the Town of New Lebanon at a designated future time in connection with that person's alleged commission of a violation of this chapter.

(3)

Penalties.

(a)

A person or corporation, whether as owner, lessee, agent or employee, who violates any of the provisions of this chapter or who fails to comply with any order or regulation made thereunder, or who erects, alters, moves or uses any building or uses any land in violation of any statements or plans submitted by him and approved under the provisions of this chapter, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding \$350 or imprisonment not to exceed six months, or both, for a conviction of a first offense in accordance with the provisions of Article 16 of the Town Law, § 268, and amendments thereto, and any other article relating thereto. The penalty for a conviction of a second offense, both of which were committed within a period of five years, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 or more than \$1,000 or

imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

(b)

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this chapter, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

(c)

If the Zoning Enforcement Officer fails or refuses to act upon or to refer a violation of this chapter to the Town Attorney for legal action in accordance with the provisions contained herein within a thirty-calendar-day period following written request by any resident or property owner to so proceed, then any three or more residents of the Town of New Lebanon, who are jointly or severally aggrieved by such violation, may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

## § 205-12. Zoning Board of Appeals.

A.

Creation, appointment and organization.

(1)

A Zoning Board of Appeals is hereby established in accordance with Article 16, § 267, of the Town Law. It shall consist of five members, each to serve for a term of five years. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of Article 16, § 267, of the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.

(2)

The Zoning Board of Appeals shall have the duties, rights, powers and functions conferred upon it by §§ 267, 267-a and 267-b of Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of law or local law applicable thereto, including the following.

B.

Procedure.

(1)

Meetings; minutes; records. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. 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.

(2)

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 office of the Town Clerk within five business days and shall be a public record.

(3)

Assistance to Zoning Board of Appeals. Such Board shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

(4)

Hearing appeals. The jurisdiction of the Zoning Board of Appeals shall be appellate and shall include hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Zoning Enforcement Officer. An appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.

(5)

Filing of administrative decision and time of appeal.

(a)

Each order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer shall be filed in the office of the Town Clerk, within five business days from the day it is rendered, and shall be a public record.

(b)

An appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer, by filing with such officer and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The Zoning Enforcement Officer shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(6)

Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with 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 which 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 record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

(7)

Hearing on appeal. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney. In addition to the public notice of a hearing, notice shall be given in writing to all property owners of the land included in such proposed change and the land immediately adjacent extending 100 feet therefrom and the land directly opposite thereto extending 100 feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the Town. At the hearing, any party may appear in person or by agent or by attorney.

(8)

Decision. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.

(9)

The Zoning Board of Appeals shall decide upon the appeal within 62 days after the close of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

(10)

Filing of decision and notice. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

(11)

Notice to County Planning Board. At least five days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the County Planning Board as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

(12)

Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.

(13)

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 that 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.

(14)

Voting requirements.

(a)

Decision of the Board. Except as required by Subsection **B(13)**, every motion or resolution of the Zoning Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency, the voting provisions of § 239-m of the General Municipal Law shall apply.

(b)

Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Zoning Enforcement Officer within the time allowed by Subsection **B(9)**, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in Subsection **B(13)** of this section.

C.

Permitted action by Zoning Board of Appeals.

(1)

Orders; requirements; decisions; interpretations; determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Zoning Enforcement Officer and to that end shall have all the powers of the Zoning Enforcement Officer.

(2)

Use variances.

(a)

The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

(b)

No such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1]

The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

[2]

That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

[3]

That the requested use variance, if granted, will not alter the essential character of the neighborhood;

[4]

That the alleged hardship has not been self-created; and

[5]

Such other additional or different demonstrations that may be prescribed by § 267-b of the Town Law, as it may be amended from time to time.

(c)

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

(3)

Area variances.

(a)

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(b)

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

[1]

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

[2]

Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

[3]

Whether the requested area variance is substantial;

[4]

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

[5]

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance; and

[6]

Such other additional or different considerations that may be prescribed by § 267-b of the Town Law, as it may be amended from time to time.

(c)

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

D.

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

## § 205-13. Special use permits.

A.

General provisions.

(1)

New Lebanon is a culturally, economically, socially and architecturally diverse community. The Planning Board shall consider this diversity in imposing conditions on special permits and shall not impose specific requirements concerning the exterior aesthetics of the structures being reviewed, except as required to achieve compliance with the performance standards of this section and the height, areas, size, setbacks and all other minimum and maximum limitations as detailed in this chapter.

(2)

Reviewing agency. Special use permit applications shall be made to, and decided by, the Planning Board. (As used in this § **205-13**, the term "Board" refers to the Planning Board.)

(3)

All uses allowed subject to special use permits are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered an individual case. Special permit uses are specifically declared to be allowed within the district in which they are located, provided that the Board makes a written finding that the individual case meets the special use permit standards of this section. The Board shall not issue a permit to allow any use subject to the special use permit provisions of this section unless the Board first finds that the use, as proposed, will be in compliance with the standards set forth in this section.

(4)

For uses requiring a special use permit, no building permit or certificate of occupancy shall be issued by the Building Inspector until such use has been approved by the Board as provided herein. No premises shall be occupied or used and no certificate of occupancy shall be issued until all of the requirements of this section and all conditions of the special use permit have been complied with. To the greatest extent practicable, the Planning Board shall conduct special permit review and site plan review concurrently where, pursuant to the Use Table, both a special use permit and site plan review pursuant to § **205-14** are required.

(5)

Violations. No special use permit approval shall be issued for any use or construction where there is on the subject property an existing violation of the Zoning Law. Further, upon written report or receipt of a notice from the Building Inspector of violation or order to cease and desist, the Board shall not review, hold public meetings or public hearings and shall take no action regarding an application for special use permit approval until notified by the Building Inspector that such violation has been cured or ceased by the applicant. However, the Board may, upon written recommendation of the Building Inspector, review and act on an application involving property for which there is a violation where such application is a plan to cure the violation and bring the property or use of the property into compliance with this chapter.

B.

Special use performance standards. In granting any special use permit, the Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public, in general, and of the immediate neighborhood, in particular. The Board shall consider whether aspects of the proposed use are subject to regulation by other levels of government and whether compliance with such regulations is adequate to protect the public health, safety, and general welfare and the comfort and convenience of the public. The Board may require modifications to development proposals, submission of alternative design and layout proposals, and may attach reasonable conditions and safeguards to eliminate or minimize potential impacts as a precondition of its approval. Before making a decision on whether to approve, approve with modifications, or disapprove a special use permit, the Board shall give specific consideration to the following:

(1)

Fire and explosion hazards. All activities involving the storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Methods of prevention and suppression of these hazards shall be approved by the local officials responsible for fire prevention and public safety.

(2)

Radioactivity or electrical disturbance. No activities shall be permitted that emit radioactivity or electrical disturbance that will jeopardize the health of adjacent residents and properties or property or otherwise adversely affect the operation of any equipment other than that on the premises.

(3)

Noise. The maximum noise level at the property line applicable to the use involved shall not exceed 70 dB as measured in accord with the procedure specified by the American National Standards Institute.

(4)

Vibration. No vibration shall be permitted which is detectable, other than by instrument, at the property line.

(5)

Glare. No direct or reflective glare from any lighting or process shall be permitted where such will interfere with traffic safety or the useful enjoyment of adjoining properties.

(6)

Smoke. No emission shall be permitted of a shade equal to or darker than Ringelmann Smoke Chart No. 2.

(7)

Odors. No emission of noxious gases or other matter shall be permitted in a quantity or of a type that permits it to be detectable, other than by instrument, at the property line.

(8)

Other forms of air pollution. No emission of fly ash, dust, smoke, vapors, gases or other forms of air pollution, including construction-related dust and odors, shall be permitted which can jeopardize human health, animal or vegetable life or which otherwise contributes to the deterioration of or detracts from adjacent properties, provided that for specific air pollutants that are regulated under federal or state law, compliance with all such applicable laws, regulations and/or permits issued thereunder shall constitute compliance with this performance standard.

(9)

Discharge of water. No polluting or objectionable waste shall be discharged into any stream or other natural drainage channel or upon the land that will in any way interfere with the quality, operation or continuation of these natural systems or contribute to their despoliation.

(10)

Traffic access. All proposed traffic accessways shall be adequate but not excessive in number, adequate in width, grade and alignment and visibility, and sufficiently separated from street intersections and places of public assembly and shall meet other similar safety considerations.

(11)

Parking. Adequate off-street parking and loading spaces shall be provided in accordance with this chapter to prevent parking in public streets of the vehicles of any persons connected with or visiting the use. Shared parking is encouraged where the peak parking demands of different uses occur at various times of the day. Use of a widely accepted means of projecting demand for shared use, such as the Urban Land Institute's shared parking report, shall be employed to demonstrate shared parking effects.

(12)

Circulation. The interior circulation system shall be adequate to provide safe accessibility to all required off-street parking and to provide for the convenience and safety of vehicular, pedestrian, and bicycle movement within the site and in relation to adjacent areas or roads.

(13)

Landscaping and screening. All parking and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Existing trees shall be preserved to the maximum extent practical.

(14)

Character. New Lebanon is a culturally, economically, socially, and architecturally diverse community. The Board shall consider this diversity in making conditions on special use permits. The character of the proposed use, buildings, structures, outdoor signs and lighting shall be in general harmony with the character of the surrounding neighborhood and of the Town of New Lebanon.

(15)

Historic and natural resources. The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site under review and in adjacent areas.

(16)

Sewage treatment and water supply. The adequacy of available sewage disposal and water supply services supporting the proposed activity or use shall be sufficient to meet the needs of the proposed activity or use.

(17)

Emergency services. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire, police, and other emergency service protection.

(18)

Size and scale. The location and size of such use, the nature and intensity of operations involved in or conducted in connection with the use, the size of the site in relation to the use, its site layout and its relation to existing and future access streets shall be such that both pedestrian and vehicular traffic will not be hazardous or inconvenient to or incongruous with said residence district or conflict with the normal traffic of the neighborhood.

(19)

Additional safeguards and conditions. The Board shall impose additional conditions and safeguards upon the special use permit as may be reasonably necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.

C.

Application requirements, review procedures and decision schedule.

(1)

Applications.

(a)

Applications for special use permits shall be in writing and on forms and in such quantity as may be prescribed by the Board, which forms at a minimum shall require the applicant to show, respectively, for each of the 19 performance standards set forth in Subsection **B** above, how the proposed use meets the standard or why the standard is not applicable to the proposed use.

(b)

The application shall be accompanied by an environmental assessment form and all necessary documentation to comply with SEQRA.

(c)

An application for a special use permit shall contain an agricultural data statement if any portion of the proposed use is located on property within an agricultural district containing a farm operation or other property with boundaries within 500 feet of a farm operation located in an agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property upon which the project is proposed; and a Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

(d)

Prior to submittal of an application for a special use permit approval, applicants are encouraged to meet with the Zoning Enforcement Officer to review the proposed application and obtain a clear understanding of the application requirements and the requirements of the Town Zoning Law. Although not required, applicants are encouraged to commence discussions with the owners of land abutting or in proximity to the project site to ascertain local concerns and local development issues early in the project design process.

(e)

Fees and costs. An application for a special use permit shall be accompanied by payment of an application fee as set by the Town Board. The application fee is in addition to any required escrow fees, and does not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Board requires professional review of the application by a private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the application, reasonable fees shall be paid for by the applicant and an escrow deposit will be required.

(2)

Procedures.

(a)

Within five business days of receipt of an application, the Planning and Zoning Clerk will determine if the filing includes the required number of copies and all required accompanying documents. The Clerk will notify the applicant if copies or documents are missing. Properly filed applications will be forwarded to the Planning Board.

(b)

Provided that a properly filed application has been received by the Clerk at least 10 business days prior to the next regularly scheduled meeting, at such meeting the Board shall review the application contents and determine if the application is complete. If deemed incomplete, the Board shall notify the applicant within five business days in writing of the application's deficiencies. No application shall be deemed complete until a determination of no significance has been made pursuant to SEQRA or until a draft environmental impact statement has been accepted by the lead agency.

(c)

Within 62 days of receipt of a complete application, the Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least 10 days prior to the date set for public hearing. In addition, not less than 10 days before the date of the hearing (not counting the date of the hearing), written notice of the public hearing shall be mailed to the owners of all property abutting

the exterior boundaries of the land involved in the application and to all other landowners having property located within 300 feet of the exterior boundaries of the land involved in the application, as the names of said owners appear on the last completed assessment roll of the Town. The notice shall include the name of the project, the location of the project site, and the date, place, time and subject of the public hearing at which the site plan will be reviewed. If an application for a special use permit contains an agricultural data statement, written notice of such application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. At least 10 days before such hearing, the Board shall mail notices thereof to the County Planning Board as required by § 239-m of the General Municipal Law.

(d)

Time of decision. The Board shall grant or deny the special use permit application within 62 days after the close of the public hearing, subject to compliance with the requirements of SEQRA and General Municipal Law § 239-m. In rendering its decision the Board shall grant, deny or grant with modifications and conditions the special use permit. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board shall be filed in the office of the Town Clerk within five business days of the date such decision is rendered, and a copy thereof shall be mailed to the applicant.

D.

Expiration. A special use permit shall be deemed to authorize only the particular special use or uses permitted in any district and shall expire if:

(1)

Where the special use involves construction requiring a building permit, the building permit application has not been filed within 90 days of the date the special use permit was granted, or construction has not been commenced within one year and has not been completed within two years of the date special use permit approval is granted.

(2)

If no construction is involved, approval shall expire if the use or uses have not been commenced within one year of the date special use permit approval is granted.

(3)

The special use or uses shall have ceased for more than 12 consecutive months.

E.

Prescribed standards for certain special permit uses. In addition to all other applicable requirements, uses for which a special permit is required shall meet the requirements set forth below:

(1)

Short-term rental.

(a)

Short-term rentals shall be established, maintained and operated so as to preserve and complement the character and integrity of the surrounding area.

(b)

If the short-term rental is not occupied by the owner/operator, the owner/operator shall provide the Zoning Enforcement Officer with the name, telephone number, and email address of a contact person who must reside within 20 miles of the property and who must be authorized to act and receive notices and process on behalf of the owner/operator with respect to the property. Updated contact information shall be provided to the Zoning Enforcement Officer whenever the name, telephone number, or email address of such contact person changes, and not less than annually.

(c) No special use permit shall be issued for a short-term rental that would include use or occupancy of any existing or previous ADU during a period of three years from the date a final certificate of occupancy was issued for such ADU.

(2)

Boardinghouse.

(a)

In addition to meeting the minimum lot size requirements for the district within which it is located, there shall be a minimum of 5,000 square feet on the lot per room designated as sleeping accommodation for boarders, as well as 5,000 square feet for the family residing on the lot.

(3)

Campgrounds; seasonal camps. Such use shall conform to the requirements of the New Lebanon local law entitled "Camping Ground Ordinance."

(4)

Commercial excavation.

(a)

Mining operations may be subject to the Mined Land Reclamation Law (ECL Article 23, Title 27). In addition to meeting the requirements below, the granting of a special permit for any mining operation for which more than 1,000 tons of materials will be removed from the earth within 12 successive calendar months will be contingent upon the applicant obtaining a mining permit from the New York State Department of Environmental Conservation.

(b)

The Board, in granting any such special use permit, may impose reasonable conditions as allowed under the Mined Land Reclamation Law (ECL Article 23, Title 27), including conditions related to the following:

[1]

Ingress and egress to public roads controlled by the Town of New Lebanon.

[2]

Routing trucks on roads controlled by the Town of New Lebanon.

[3]

Conditions in DEC's mining permit relating to setbacks, dust control, hours of operation.

[4]

Enforcement of the reclamation requirements in DEC's mining permit.

(c)

A security or bond in a dollar amount to be determined by the Board to be sufficient to guarantee fulfillment of conditions imposed shall be posted.

(d)

No such permit shall be issued except upon written application. Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such permit is sought, the names of all adjoining locations of existing and private ways nearest such land.

(e)

An applicant for a permit issued pursuant to Title 27 of Article 23 of the Environmental Conservation Law (or a successor statute) shall provide a copy of its application and supporting documents to the Board at the time its application is filed with DEC. The Board shall participate in DEC's mining permit process and shall advise DEC about the following issues:

[1]

The appropriate setbacks from roads and property boundaries. There shall be a two-hundred-foot setback from all road and property lines.

[2]

The location and design of barriers to restrict access to the mine. Barriers shall be placed in first 200 feet and may only remove or alter the landscape/vegetation to the minimum extent necessary to create an entrance/exit for the operation. All entrance and exits shall ensure a safe line of site for trucks and other traffic.

[3]

Dust-control issues.

[4]

Hours of operation. Hours shall be from 7:00 a.m. to 5:00 p.m. only.

[5]

Whether mining is prohibited in that location.

[6]

Potentially significant environmental impacts.

(5)

Day-care centers.

(a)

There shall be not more than one child for every 1,500 square feet of lot area.

(b)

All buildings, structures, and areas of organized activity, such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.

(c)

Off-street parking areas shall be not less than 50 feet from any property line.

(d)

Outdoor floodlighting or public address systems are prohibited.

(6)

Flea markets and farmers' markets.

(a) Flea markets and farmers' markets may be permitted only in General Commercial, Central Commercial, and Commercial-Recreational zoning districts.

(b) Seventy percent of flea market or farmers' market area must be reserved for parking.

(c) Sanitary facilities shall be provided by the owner on site.

(d) There shall be no on-street parking.

(e) All access to Routes 20 and/or 22 shall have New York State Department of Transportation approval.

(7)

Motor vehicle fueling stations; motor vehicle repair shops.

(a)

The lot shall have a minimum frontage along the principal street or highway of at least 150 feet.

(b)

No church, school, library, playground, or similar place of public assembly shall be within 500 feet of the site.

(c)

All pumps or buildings and lubricating and other devices shall be located at least 25 feet from any adjacent building, structure and street line.

(d)

Entrance or exit driveways shall be approved by the appropriate highway authority.

(e)

The area devoted to the outdoor storage of motor vehicles and/or parts thereof, or to purposes of dismantling, shall be screened from view of persons on adjacent properties by enclosing such within a solid fence eight feet high, or such area shall be located inside a building.

(f)

Outdoor storage of other than motor vehicles shall be prohibited at all times. Premises shall not be used for the sale, rent or display of trailers, mobile homes, boats or other vehicles.

(g)

The business of selling gasoline may be accessory to a retail store pursuant to these standards.

(h)

The Board may limit the number of gas pumps to ensure consistency in scale between the gas filling station and adjacent land uses.

(i)

There shall be no glare of gas canopy islands outside the boundaries of the site.

(j)

All gas canopy lights shall be recessed with no bulb, lens or globes extending below the casing or canopy ceiling.

(k)

No signs shall be allowed on the canopy mansard, fascia or roof area covering gas dispensers.

(l)

All pumps, pump islands, tanks, piping and canopies shall be removed when fuel-dispensing activity has been inactive for a period of 12 months.

(m)

Construction, maintenance and inspection of motor vehicle fueling stations shall comply with all applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps. The Town will be supplied with copies of all bulk storage permits.

(n)

The Board shall require a traffic impact analysis.

(o)

The Board may limit hours of operation or limit acceptable hours of fuel delivery if residential structures are impacted.

(p)

Applicants shall evaluate site conditions and provide information, analysis, and evidence that the proposed gasoline station will not degrade the quality of groundwater.

(q)

A motor vehicle repair shop that engages in motor vehicle sales must comply with motor vehicle sales requirements. For motor vehicle repair shop uses, all repairs shall be conducted in an enclosed building.

(8)

Golf course; private recreation area.

(a)

There shall be a minimum lot size of two acres.

(b)

All activities of such use shall be contained on the site at sufficient distance from the boundaries and shall be laid out as not to adversely affect surrounding property and to assure that there is no danger to surrounding properties.

(c)

The golf course shall utilize stormwater pollution prevention techniques; incorporate best management practices; utilize natural landscaping; utilize integrated pest management techniques, minimize water usage, and protect environmentally sensitive locations and habitats on site.

(9)

Home Occupation 2 (HO2). Special use permits for HO2 uses shall be reviewed and determined by the Planning Board. The Planning Board shall grant a special use permit for an HO2 use only where the following standards are met:

(a)

The use shall be compatible with the character of the neighborhood.

(b)

There shall be no exterior alterations in connection with the profession or occupation that are inconsistent with the character of the neighborhood.

(c)

The use shall produce no appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence.

(d)

The use shall not cause a substantial increase in traffic in the neighborhood.

(e)

There shall be no more than two commercial or special purpose vehicles stored at the property. Any commercial or special purpose vehicle on the property shall be screened from view from the street and adjoining properties or stored under cover. Any commercial or special purpose vehicle in excess of 1 1/2 tons in capacity or 24 feet in length shall be stored in an enclosed structure within the principal building or an accessory building, or within the rear yard and shall be screened from view from the street and adjoining properties.

(10)

Multifamily dwellings.

(a)

In addition to meeting the minimum lot size requirements for the establishing of the principal use, there shall be a minimum of 5,000 square feet on the lot per dwelling unit.

(b)

The Board, as part of the sketch phase of site plan review, shall evaluate the building design. Multifamily structures that have an appearance of a single-family dwelling are preferred. The Board shall ensure that the design is compatible with the existing character of neighborhood and Town.

(11)

Temporary housing.

(a) In districts where temporary housing is identified as a permissible use, a mobile home, manufactured home, compact home, or recreational vehicle may be used as a temporary residence or business while a permanent building is being constructed. A special use permit for temporary housing shall have a term of one year, and may be renewed as needed for two six-month periods.

(b) The first six-month extension shall be granted only upon satisfactory completion of the foundation, framing and sheathing of the permanent structure and shall be extended only upon good cause being shown and a showing that construction has not been completed. The mobile home, manufactured home, compact home, or recreational vehicle shall be removed from the premises upon expiration of the permit.

(c) Drainage and grading, water supply, sewage disposal, garbage receptacles, and electric service and connections relating to temporary housing shall comply with the provisions of Chapter 88, Section 88-6 (Regulations for camping grounds and tourist camps), or its successor, of the Code of the Town of New Lebanon, as in effect from time to time. Sanitary sewage waste shall either be disposed of using an on-site private septic system that complies with all applicable regulatory requirements, or where such on-site private septic system is not then available, shall be pumped and lawfully disposed of in accordance with applicable regulatory requirements at regular intervals.

(12)

Motor vehicle sales.

(a)

Repairs shall be conducted in an enclosed building.

(b)

Only minor repairs of motor vehicles which are for sale at this establishment may be performed unless the owner has received permits required to operate a motor vehicle repair shop.

(c)

Entrance and exit driveways shall total no more than two in number and shall have an unrestricted width of no less than 18 feet nor more than 30 feet and be located no closer than 20 feet to any side lot line. Driveways must be approved by the proper authorities.

(d)

All vehicles shall be set back behind the curbing not less than 50 feet from the center line of the travel portion of the road. Curbing shall be required at the frontage of the road, and cars shall be set back far enough behind the curbing so as not to interfere with visibility.

(e)

No banners, pennants, string flags, balloons or other such display shall be permitted.

(13)

Adult uses. See Chapter **60**, Adult Bookstores and Adult Entertainment.

(14)

Automobile racing facility.

(a)

There shall be a minimum lot size of five acres.

(b)

The use shall be located along a state or county highway only; primary access shall be on the state or county highway, and ingress and egress shall be approved by the New York State Department of Transportation or the County Department of Public Works.

(c)

Such use shall have a landscaped buffer area at least 50 feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide a visual screening from adjacent properties.

(d)

At least 10 feet of such landscaped area shall be a coniferous evergreen planting a minimum of six feet in height, except within 10 feet of ingress and egress points, at which the coniferous planting shall be a maximum of three feet in height.

(e)

No structure shall be located within 100 feet of any property lines.

(f)

All activities of such use shall be contained on the site at sufficient distance from the boundaries and shall be laid out as to not adversely affect surrounding property and to assure that there is no danger to surrounding properties.

(g)

Adequate off-street parking shall be available.

(h)

Any lighting shall be arranged so as not to cause a glare on surrounding properties.

(15)

Small business operation.

(a)

General conditions.

[1]

The SBO must meet all zoning conditions for the commercial zone in which it is located;

[2]

If located in a General **Commercial, Central Commercial**, Commercial Recreational, or Commercial Residential Zone, at least 25% of the square footage of the SBO must be devoted to retail. Such retail space must be located adjacent to the public entrance to the SBO, generally the storefront. Nothing herein should be construed to apply this requirement to a small business operation located in a Commercial Industrial Zone.

[3]

The manufacturing is performed primarily within the confines of the buildings, but may make minor use of outside space.

[4]

The manufacturing performed on premises will not produce substantial noise, vibration or otherwise objectionable disturbances, such as smoke, dust, odors, heat, glare or electrical disturbances or heavy truck traffic, and will not involve the use of heavy machinery or mass production.

[5]

The SBO will not cause a major increase in neighborhood traffic.

[6]

The SBO will have sufficient off-street parking for employees and customers.

[7]

Hazardous material shall be stored in accordance with the New York State Fire Code.

[8]

The number of employees permitted to work simultaneously at the SBO may not exceed 10 employees.

(16)

Home-based business. Special use permits for home-based business uses shall be reviewed and determined by the Planning Board. The Planning Board shall grant a special use permit for a home-based business only where the following standards are met:

(a)

The use shall be carried on by at least one person that resides in the dwelling unit and no more than two persons that do not reside in the dwelling unit.

(b)

No signs are allowed, except as permitted by § **205-17B(11)**.

(c)

There shall be no more than six commercial or special purpose vehicles stored at the property. All commercial or special purpose vehicles in excess of two shall be screened from view from the street and adjoining properties or stored under cover. Any commercial or special purpose vehicle in excess of 1 1/2 tons in capacity or 24 feet in length shall be stored in an enclosed structure within the principal building or an accessory building, or within the rear yard and shall be screened from view from the street and adjoining properties.

(d)

All materials or other equipment shall be stored within the principal building or accessory building or within the rear yard and shall be screened from view from the street and from adjoining properties. The location of such storage areas shall be identified on a plan submitted to the Planning Board as part of the special use permit application.

(e)

The use shall not produce any appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbance that substantially exceed those normally produced by a residence.

(f)

The use shall not cause a substantial increase in traffic in the neighborhood.

(g)

Sufficient off-street parking for customers, clients, employees and other visitors shall be provided as determined by the Planning Board.

(17) Cannabis Retail Dispensaries and Cannabis Consumption Facilities. Each cannabis retail dispensary and each cannabis consumption facility shall comply with the following additional requirements:

(a) In reviewing an application for special use permit for a cannabis retail dispensary or cannabis consumption facility, and in addition to any other applicable special use permit standards, the Board shall require:

[1] that the applicant demonstrate that the proposed use will not cause discernable odors beyond the property line, or where the proposed use is permissible as one of multiple uses on a single lot, beyond the boundary of the area designated specifically for such proposed use (e.g., the tenant space);

[2] that the applicant demonstrate, through competent technical proof, that its proposal includes sufficient off-street parking to fully support the anticipated parking load for the proposed use, which competent technical proof shall include an assessment of parking loads at other established similar adult-use cannabis uses within the region (including, where appropriate, outside of New York State); and

[3] that the applicant demonstrate that its proposal includes sufficient ingress and egress points designed to permit safe and efficient access from adjoining public highway(s) and to avoid traffic congestion.

(b) No cannabis retail dispensary or cannabis consumption facility shall be located within 500 feet of any school, any place of worship, or the boundary of any Town park or national or state historic site.

(c) Cannabis retail dispensaries and cannabis consumption facilities shall not open before 9 AM nor remain open after 9 PM Mondays through Saturdays and shall not open before 12 PM nor remain open after 7 PM on Sundays.

(d) Each cannabis retail dispensary and cannabis consumption facility shall comply with all laws and regulations of New York State applicable thereto.

(e) Any local permit or approval for a cannabis retail dispensary or a cannabis consumption facility, including special use permit, site plan approval and a zoning permit, shall be deemed conditioned upon the applicant securing and continuously maintaining the appropriate state license therefor. No applicant for any local permit or approval shall commence operations until such state license has been issued, and proof thereof shall be provided to the Zoning Enforcement Officer. Any local permit or approval for a cannabis retail dispensary or a cannabis consumption facility shall be deemed to expire upon the suspension, revocation, termination, non-renewal, or expiration of any such state license that results in any period of time during which the use lacks a current, effective and valid state license for such use.

(18) Mixed Use.

(a) Each constituent use comprising a mixed use must meet all requirements applicable to such constituent use set forth in this chapter.

(b) In reviewing an application for special use permit for a mixed use, the Planning Board shall consider each constituent use comprising a proposed mixed use individually, as well as all such constituent uses comprising a proposed mixed use cumulatively.

(c) A special use permit for a mixed use shall only permit the constituent uses for which the special use permit was issued. Any additional or different constituent uses, whether considered principal uses or accessory uses under this Chapter, shall not be permitted unless special use permit approval is granted therefor by the Planning Board.

(19) Commercial Event Venues. Each commercial event venue shall comply with the following requirements:

(a) Commercial event venues shall be limited to holding one event per calendar day.

(b) Each event held at a commercial event venue shall not exceed fourteen hours.

(20) Self-Storage Facilities. In addition to meeting the standards set forth for special use permit uses in Paragraph B of Section 205-13 of this chapter, all self-storage facilities shall comply with the provisions of this subparagraph (20). Where any standard set forth in Paragraph B of Section 205-13 and the provisions of this subparagraph (20) conflict, the provisions of this subparagraph (20) shall control.

(a) No outdoor storage of any kind shall be permitted.

(b) The owner of the self-storage facility shall ensure that the facility and site are kept in a clean, orderly, and well-maintained condition.

(c) All landscaping shall be maintained in perpetuity and any dead or dying landscaping shall be replaced.

(d) Area and Bulk Regulations. In addition to complying with all other area and bulk regulations applicable within the zoning district, self-storage facilities shall comply with the following:

[1] Building coverage of all structures within the area of the property situated within the applicable zoning district shall not exceed 50%, except in the Commercial-Industrial zoning district. Within the Commercial-Industrial zoning district, building coverage for all structures within the area of the property therein shall not exceed 25%.

[2] The minimum front setback shall be 100 feet.

[3] The minimum side yard (each side) setback shall be 100 feet.

[4] The minimum rear yard setback shall be 100 feet.

[5] The maximum number of stories shall be 2.

[6] The maximum building height shall 15 feet for single story structures and 30 feet for two-story structures.

(e) Building design. All buildings comprising a self-storage facility shall be designed in a rural or agricultural style and in a way that keeps with the character and community values of the Town of New Lebanon. In addition, all such buildings shall comply with the following:

[1] No self-storage building shall exceed 75 feet in width, nor 150 feet in length.

[2] Roof pitch shall be no less than 3:12 and no greater than 6:12.

[3] Gable roofs are preferred. Gambrel roofs, mansard roofs, and roofs with dormers may be acceptable in the discretion of the Planning Board.

[4] Roofs shall include overhangs/eaves on all sides. Eaves along the side of each building shall be no less than 12 inches. Eaves along the end of each building shall be no less than 6 inches. For purposes of this provision, the Planning Board shall determine what exterior walls shall constitute the sides and ends.

[5] All buildings must include trim on corners, eaves, and bases. The Planning Board shall require that long building elevations be broken up by trim, change of material, or other architectural method or features acceptable to the Planning Board every 30 feet, or such other dimension as the Planning Board shall determine is in furtherance of a design that otherwise meets the objectives of these provisions governing building design.

[6] All overhead doors shall mimic traditional sliding or residential style overhead doors in detailing. Coiling overhead doors are prohibited on exterior walls. Door height shall not exceed 10 feet.

[7] Windows (real or faux) shall be included on blank expanses of walls at regular intervals in the discretion of the Planning Board. Such windows shall be in proportion to the building.

[8] Cupolas may be included on buildings so long as they are in keeping with the overall character of the chosen design aesthetic and are in scale with the overall buildings.

[9] Buildings in which individual storage units are accessed from the interior of the building shall have loading doors located at the rear of the building.

(f) Site Design. Site design of a self-storage facility shall comply with the following:

[1] All self-storage facilities shall be screened using one or more of the following methods as deemed acceptable by the Planning Board:

[a] Enclosure of the facility within a stockade fence having a minimum height of 8 feet, with such landscaping as may be deemed appropriate by the Planning Board in its discretion, with consideration given to, among other things, the extent of fencing required and its location on the site;

[b] Screening of the facility by (i) evergreens having a mature height of greater than 16 feet, and which shall be planted at a starting height of at least 6 feet; and, between such evergreens and any public street (or, if applicable, between such evergreens and any adjoining lot where deemed

appropriate by the Planning Board), (ii) either an earthen berm of not less than 4 feet in height, or landscaping consisting of deciduous perennials, evergreen shrubs that mature to a height of 4 to 6 feet, and landscaping stones, boulders, and similar materials, or a combination of such earthen berm and landscaping;

[c] Screening of the facility by use of the rear side of one or more self-storage buildings, provided such rear side does not include entryways to individual units and is appropriately detailed and landscaped in furtherance of the aesthetic objectives of these regulations governing special use permit requirements for self-storage facilities.

[2] Facility entrances shall be designed to reduce direct views into the facility. Driveway access shall be set off to the side of the facility and curve to an entry gate located at the side of the facility. Gates shall not be permitted in the front yard. The Planning Board shall have authority to require such screening or landscaping as it deems appropriate for driveways providing access to the site.

[3] Notwithstanding anything else contained in this chapter to the contrary, signage at the facility shall comply with the following:

[a] No sign shall exceed 24 square feet.

[b] Only one sign shall be permitted.

[c] Signage shall either be free-standing or mounted on a building where the building forms part of the screening required under these regulations.

[c] The materials, location, and architectural design of signage shall be consistent with and complimentary to the neighborhood and shall be approved by the Planning Board.

[4] Building arrangement on the site shall take advantage of existing contours of the site and preserve existing vegetation to the extent practicable, and shall provide adequate circulation around and through the facility, including providing appropriate emergency access and circulation.

[5] Not more than 30% of the existing mature vegetation on the site may be removed for purposes of development of the facility. The Planning Board shall have the authority to require additional vegetation as it deems appropriate in furtherance of the objectives of these regulations governing special use permit requirements for self-storage facilities.

[6] Loading docks, parking areas, and waste storage containers shall be located at the rear of the facility. All waste storage containers shall be enclosed in an opaque enclosure that is consistent with the overall design aesthetic of the site.

[7] Buildings that have a building height in excess of 15 feet shall be landscaped to include trees and foundation plantings, with a mix of deciduous and evergreen trees, to reduce the scale of the building.

## § 205-14. Site plan review.

### A.

Intent and purpose. Through site plan review, it is the intent of this chapter to promote the health, safety and general welfare of the Town. A clean, wholesome, attractive environment is declared to be

of importance to the health and safety of the inhabitants of the Town, and in addition, such an environment is deemed essential to the maintenance of the quality of life in the Town and the general welfare of its inhabitants. It is further the intent of this chapter to ensure optimum conservation, protection, preservation, development and use of the natural and man-related resources of the Town, by regulating land use activity within the Town through review and approval of site plans consistent with the adopted Town of New Lebanon Comprehensive Plan. It is the intent of this section to promote and encourage good design standards, adequate site amenities and visual and physical qualities in residential, commercial and industrial development.

B.

Authorization of Planning Board to review site plans. The Planning Board is hereby authorized to review and approve or disapprove, and, where it deems appropriate pursuant to § **205-14E(2)**, waive the review of, site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

C.

Costs. Cost incurred by the Planning Board for consultation fees or other expenses, including but not limited to engineering, legal, architectural, planning, or traffic engineering services, in connection with the review of the proposed site plan shall be charged to the applicant. The applicant shall deposit into an escrow account, established by the Town specifically for this purpose, a sufficient amount to be used solely by the Town of New Lebanon to retain qualified experts needed for review of the proposal as determined by the Planning Board.

D.

Site plan review and approval shall be required prior to beginning any new land use activity, engaging in any previous land use activity after having not engaged in such land use activity for a period of 18 months or more, or changing any land use activity, except with respect to the following:

- (1) Construction of one- and two-family homes and ordinary accessory structures and related land use activities.
- (2) Landscaping or grading, provided that such landscaping or grading is not undertaken in connection with a project that is otherwise subject to site plan review.
- (3) Ordinary repair or maintenance of existing structures or uses.
- (4) Exterior alterations or additions to existing structures which, when combined with all other exterior alterations or additions over the past five years, results in an aggregate increase in total square footage of such existing structures during such five-year period of not more than 25%.
- (5) Nonstructural agricultural or gardening uses.

E.

Procedures, generally. Prior to receiving a building permit and undertaking any new land use activity requiring site plan review, applicants shall prepare a sketch plan and attend the sketch plan conference as hereinafter set forth. The sketch plan shall be filed no fewer than 10 business days prior to the next regularly scheduled Planning Board meeting.

(1)

Sketch plan. A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of the application. The intent of such a conference is to enable the applicant to inform the Planning Board of the applicant's 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 generally determine the information to be required on the site plan application. In order to accomplish these objectives, the applicant shall provide the following for a sketch plan, except to the extent that, pursuant to Subsection **D** of this section, the Zoning Enforcement Officer determines that such information is not relevant or is otherwise not likely to be required for the Planning Board's sketch plan review:

(a)

A statement describing the project, giving evidence of compatibility with the Town of New Lebanon Comprehensive Plan and a time period for completion of the project;

(b)

A rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;

(c)

An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements, agricultural operations, and other pertinent features within 200 feet of the boundaries of the parcel; and

(d)

A topographical or contour map of adequate scale and detail to show site topography with contour intervals of 20 feet or less. Topographical maps that meet this requirement are available in the Building/Planning/Zoning Department office located in Town Hall.

(2)

Waiver of full site plan review. Notwithstanding the following requirements for site plan review, at or subsequent to the sketch plan conference, the Planning Board may waive the requirement of review and approval where it finds, in writing, served to the Zoning Enforcement Officer and applicant, that such review and approval is unnecessary and would not serve the purposes of this chapter. In granting that waiver, the Board shall determine that the proposed change in use or site plan change would not result in significant additional traffic generation, wastewater flows, or water consumption and would not otherwise adversely affect pedestrian and traffic circulation, eliminate parking, or alter the height of the exterior façade.

(3)

Application. Following the sketch plan conference, an application for site plan approval shall be made, in writing, to the Planning Board. Five copies shall be filed with the Planning/Zoning Clerk at least 10 business days prior to the next Planning Board meeting at which the application is on the agenda. The application shall include one or more of the following, as determined to be required by the Planning Board at the sketch plan conference:

(a)

A description of the planned use;

(b)

An erosion and stormwater control plan to prevent the pollution of surface water or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table and flooding of other properties, as applicable. This plan must comply with the New York Guidelines for Urban Erosion and Sediment Control and, if more than one acre of a site is disturbed, must be permitted by the New York State Department of Environmental Conservation.

Where appropriate, the Planning Board may request soil logs, percolation test results and storm runoff calculations;

(c)

A description of the method of sewage disposal and location, design and construction materials of such facilities;

(d)

A description of the method of securing potable water and location, design and construction materials of such facilities;

(e)

An estimated project construction schedule;

(f)

Identification of any noise-producing elements of the project and an estimation of noise levels to be generated in decibels.

(g)

Identification of any permits from other governmental bodies required for the project's execution and a schedule showing when applications for such permits will be filed;

(h)

An agricultural data statement as defined in this chapter;

(i)

Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board; and

(j)

Disclosure if Industrial Development Agency funding, tax-exempt status or tax abatements are to be sought in conjunction with this project.

(k)

A drawing or drawings containing the following:

[1]

Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;

[2]

North arrow, scale and date;

[3]

Boundaries of the property plotted to scale;

[4]

Existing buildings and rights-of-way;

[5]

Rock outcrops, depth to bedrock, soil characteristics, watercourses, slopes in excess of 15% and grading and drainage plan, showing existing and proposed contours;

[6]

Location, architectural design, type of construction, proposed use and exterior dimensions of all buildings;

[7]

Location, number, design and type of construction of all parking and truck loading areas, showing access and egress, including those spaces dedicated for handicapped parking;

[8]

The location of all present and proposed public and private ways, driveways, sidewalks, ramps, curbs, paths, and other pedestrian access;

[9]

Location of outdoor storage, and location, type and screening details for all waste disposal containers, if any;

[10]

Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, catch basins, headwalls, end walls, hydrants, detention ponds, drainage swales, retaining walls and fences;

[11]

Location of fire and other emergency zones, including the location of fire hydrants, if any;

[12]

Location, design and construction materials of all energy production and distribution facilities, including electrical, gas and solar energy;

[13]

Location, size, height, materials, and design and type of construction of all proposed signs;

[14]

Location and proposed development of all buffer areas, including existing vegetative cover and buffers designed to protect stream corridors, if present;

[15]

Location, height, design, intensity and bulb type of outdoor lighting facilities;

[16]

Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

[17]

General landscaping plan and planting schedule. The landscape plan should show existing natural features that may influence the design of the proposed use such as rock outcrops, single trees eight or more inches in diameter located within any area where clearing will occur, forest cover and water sources and all proposed changes to these features. Water sources include ponds, lakes, wetlands, watercourses, aquifers, floodplains and drainage retention ponds; and

[18]

If the proposed project is located within the Flood Zone Overlay, all site plans for development shall be in conformance with the provisions of Chapter **113** of the Code of the Town of New Lebanon (Flood Damage Prevention).

(l)

A full environmental assessment form as required by SEQRA. A short environmental assessment form will be sufficient for proposed single- and two-family residences located in a New York State-certified agricultural district.

(4)

Abbreviated site plan (inventory). For existing land uses that have not received site plan approval, that were lawfully established prior to the requirement that site plan approval be obtained, and that if established currently would be subject to site plan review pursuant to this chapter, the Zoning Enforcement Officer is authorized, upon the property owner's consent, to compile, or to cause to be compiled, an abbreviated site plan (inventory). Such abbreviated site plan (inventory) shall consist of a drawing that depicts the structures located on the property, parking and lighting and other relevant features. The Zoning Enforcement Officer shall maintain such abbreviated site plans (inventories) for use by the Planning Board in any future site plan review(s) that may be applicable to the property. The Zoning Enforcement Officer shall notify, and, if requested, provide a copy of a submitted abbreviated site plan (inventory) to, the Planning Board immediately upon its completion.

(5)

Required fee. An application for site plan review shall be accompanied by the currently applicable fee.

F.

General review standards and considerations. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations and shall ensure compatibility between the proposal and the Town of New Lebanon Comprehensive Plan and applicable state and county regulations:

(1)

Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture (including but not limited to roof style and facades), massing, and placement, shall harmonize with traditional elements of the area, and shall avoid features such as flat roofs, large expanses of undifferentiated facades and long, plain wall sections. Architectural design shall be in keeping with the small-town architectural character of the area. Exterior lighting fixtures shall minimize glare and use design features such as, but not limited to, fully shielded fixtures to prevent light from shining onto neighboring properties or public ways and unnecessarily illuminating the night sky. Structures should be optimally placed to protect important viewsheds. Structures and activities shall be placed or buffered in a manner that protects adjacent agricultural operations.

(2)

Adequacy, arrangement, and compliance with the applicable municipal regulations regarding vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls, and adequacy of snow storage and ease of snow removal. The Town Planning Board shall forward the site plan to the Highway Department for review.

(3)

Location, arrangement, appearance and sufficiency of off-street parking and loading. Use of pervious surfaces such as gravel or pavers are encouraged to reduce stormwater runoff.

(4)

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

(5)

Adequacy of stormwater and drainage facilities and compliance with all applicable New York State DEC stormwater regulations.

(6)

Adequacy of water supply and sewage disposal facilities as per Columbia County Health Department.

(7)

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 existing vegetation. Landscaping shall be an integral part of the project area. To the extent practical, existing trees and other vegetation shall be conserved and integrated into the landscape design plan. Landscaping shall buffer incompatible uses such as large-scale commercial uses and residences.

(8)

Adequacy of fire lanes and other emergency zones to provide emergency access to structure(s) and the provision of fire hydrants if necessary.

(9)

Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.

(10)

Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(11)

Overall impact on the neighborhood, including compatibility of design consideration.

(12)

Adequacy and impact of structures, roadways and landscaping in areas of steep slopes and along ridgelines.

(13)

Overall impact on wetlands and surface water resources, especially related to impacts of erosion and other forms of pollution.

G.

Specific standards.

(1)

General lighting.

(a)

Where used for security purposes or to illuminate walkways, roadways, and parking lots, only shielded light fixtures shall be used. On-site lighting should be located to avoid harsh glares which distract the motorist's line of sight. The luminaire shall emit no direct light above a horizontal plane through the lowest direct light-emitting part of the luminaire. Fully shielded fixtures are required. The maximum height of the luminaire may not exceed 18 feet.

(b)

Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.

(c)

Direct light emissions shall not be visible above the building roofline for other upward-directed architectural, landscape, and decorative lighting.

(d)

Externally illuminated signs, including building identification signs, shall only use shielded light fixtures.

(2)

Light trespass and glare. All light fixtures shall be designed, installed, and maintained to prevent light trespass, as specified below.

(a)

Outdoor lighting shall be designed, installed, and maintained in a manner which does not present a disabling glare hazard to drivers or pedestrians. All reasonable measures, such as altering pole height, changing bulb type or using shielded fixtures, shall be taken to prevent the projection of a nuisance glare onto neighboring properties. Outdoor light fixtures properly installed and thereafter maintained shall be directed so that there will be no objectionable direct light emissions.

(b)

At the property line of the subject property, illumination from light fixtures shall not exceed 0.1 footcandle on adjacent residential property or 0.5 footcandle on adjacent business property, measured in a vertical plane.

(c)

The Planning Board may, as it deems appropriate, require that lighting be controlled by automatic timing devices to extinguish offending sources during specified periods to mitigate impacts. The Planning Board may also require that lighting, except for security lighting, be extinguished between the hours of 12:00 midnight and 6:00 a.m. for businesses that are not in operation during that time.

(d)

Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall vegetation, fences, and similar screening methods be considered acceptable for reducing glare.

(3)

Light fixture design. Fixtures must be properly designed for the intended purpose. Lamps shall not be directly seen from normal viewing angles. Lamps shall be directed so that light output is directed toward the surface to be lighted.

(a)

Mercury vapor greater than 40 watts and quartz halogen lamps are prohibited light sources.

(b)

Poles and fixtures shall harmonize with the architectural character of the development and surrounding area.

(4)

Fixture installation.

(a)

Lighting fixtures shall not be mounted in excess of the maximum permitted building height or as permitted in § **205-14G(1)** and **(2)**.

(b)

Electrical feeds to lighting standards shall be run underground.

(5)

Lighting plans shall be included in site plan review. Lighting plans submitted for review and approval for subdivision and land development and site plan review shall include a layout of proposed fixture locations, footcandle data that demonstrate conforming intensities and uniformities, and a description of the equipment, glare-control devices, lamps, mounting heights and means, hours of operations, and maintenance methods proposed.

(6)

Landscaping standards.

(a)

Buffers. Landscape buffers shall be provided between all residential and new commercial use. Buffers may include planted trees and shrubs, hedgerows, berms, or existing forestland. The width of such buffer areas will depend upon the topography, scale of the use and their location on the property but shall normally be between 50 feet and 200 feet. Landscaping shall be an integral part of the entire project area and shall either buffer the site from or integrate the site with the surrounding area or both.

(b)

Existing vegetation. Building placement and lot layout shall be designed to relate to and incorporate existing vegetation. Insofar as practical, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.

(c)

Landscape components. 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. Selected landscape plants should be native to the area to the extent practicable. The Planning Board may require that shade trees three inches in caliper or 12 feet in height be planted and maintained at twenty-foot to thirty-foot intervals along roads, preferably in the parkway between the road edge and sidewalk, if present, or within a ten-foot setback from the road edge.

(d)

Screening. Open storage areas, exposed machinery, and areas used for storing and collecting rubbish shall be screened from roads and surrounding land uses. Suitable types of screening include wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height.

(7)

Roads and road access standards.

(a)

Access from major streets. Lots in subdivisions should be arranged to minimize driveway access from major streets. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street. See also § **205-8D**, Driveways, Subsection **D(6)**, above, for standards related to shared driveways.

(b)

Frontage required. No building permit or certificate of occupancy shall be issued for any structure or use unless the lot on which that structure is located has frontage of at least 60 feet on a street.

(c)

Vehicle access and circulation. Multiple curb cuts shall be consolidated to the maximum extent practicable in order to provide clearly defined entrances and reduce conflicting vehicular movement.

(d)

Any new street shall be constructed in full compliance with the requirements of road specifications of the Town of New Lebanon (Chapter **179**). New roads should be interconnected except in areas where extreme topographic or wetland conditions preclude connections.

(8)

Specific standards and considerations for agricultural district. The following specific standards shall apply to site plans located within an agricultural district. The Planning Board's review of the site plan

for these locations shall include, as appropriate, but not limited to, the following general considerations and shall ensure compatibility between the proposal and the Town of New Lebanon Comprehensive Plan:

(9)

Overall impact on existing agricultural operations within the district.

(10)

The landscape plan will show a landscaped buffer a minimum of 50 feet or more where practicable between the proposed residential use and an adjoining agricultural use.

H.

Public hearing, referral, and Planning Board decision.

(1)

Public hearing. The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of a completed application for site plan review and shall be advertised in the Town's official newspaper or, if there is none, in a newspaper of general circulation in the Town at least five days before the public hearing. The Planning Board shall give notice to the applicant at least 10 days before the public hearing.

(2)

Referrals to County Planning Board. At least 10 days before such hearing, a copy of the application and any accompanying documents shall also be sent to the Columbia County Planning Board for its review, as required by § 239-m of the General Municipal Law, where any site plan review application affects real property lying within 500 feet of the Town boundary or of the boundary of any existing or proposed county or state park or other recreation area or of the right-of-way of any existing or proposed county or state parkway, expressway, road or highway or of the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or of the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated. In the event a public hearing is not required, such proposed action shall be referred before final action is taken thereon. No action shall be taken upon any matter referred to the Columbia County Planning Board until said Board shall have made a recommendation thereon to the Town Planning Board or 30 days shall have elapsed since the date of referral. If the County Planning Board disapproves the proposal or recommends modification thereof, the Town Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members and after the adoption of a resolution fully setting forth the reasons for such contrary actions. If significant changes have been made by the Planning Board or applicant to a site plan after the Columbia County Planning Board has been completed, the Planning Board shall re-refer the site plan application to the County Planning Board for a new review under § 239-m.

(3)

Planning Board decision. Within 62 days of receipt of the completed application for site plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

(a)

Approval. The Town Planning Board will approve the site plan, provided that it finds the facts submitted with the site plan establish that:

[1]

The location, nature and intensity of the use involved shall be such that it will be in harmony with the orderly development of the Town as proposed in the Comprehensive Plan and will not discourage the appropriate development and use of adjacent land and buildings;

[2]

Existing streets are suitable and adequate to carry anticipated traffic generated by the proposed use and in the vicinity of the proposed use;

[3]

The proposed use will not be detrimental to personal safety within the area, the natural characteristics of the site or area, and surrounding uses; and

[4]

The use meets the standards listed in Subsections **E** through **H** of this § **205-14**.

(b)

Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Town and not yet paid, the Planning Board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval within five business days with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

(c)

Approval with modifications.

[1]

The Planning Board may conditionally approve the final site plan. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.

[2]

A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it, and a written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

(d)

Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

I.

Miscellaneous provisions.

(1)

Integration of procedures. Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this chapter with the procedural and submission requirements for such other compliance.

(2)

Enforcement. No certificate of occupancy shall be issued until all improvements shown on the approved site plan are installed or a sufficient performance guarantee has been posted for

improvements not yet completed. This sufficiency of such performance guarantee shall be determined by the Town Planning Board after consultations with the Town Board, Zoning Officer, Town Attorney and/or other appropriate parties.

(3)

Expiration of site plan approval. Site plan approval shall automatically terminate one year after the same is granted unless a building permit has been issued and there is physical evidence to demonstrate that the project is in progress. An applicant may request one six-month extension of this time frame.

(4)

Consultant review. The Planning Board may consult with but not limited to the following: the Town Building Inspector, Fire Commissioners, environmental organizations, Highway Department Superintendent, Town Engineer, other local and county officials, the New York State Health Department, Department of Environmental Conservation, the New York City Department of Environmental Protection, and the New York State Department of Transportation. The Planning Board may hire a consultant, if needed, to review plans.

## § 205-15. Amendments.

A.

Amendments; how initiated.

(1)

The Town Board may, from time to time, on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter, following the procedures set forth in Subsections **B** through **E**.

(2)

Whenever the owners of 50% or more of the frontage in any district shall present a petition duly signed and acknowledged to the Town Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within 30 days after the filing of the same by the petitioners with the Town Clerk.

(3)

The Planning Board or the Zoning Board of Appeals may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of the regulations. Within 30 days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Board to vote on such proposed amendment.

B.

Referral of proposed amendments to the Town Planning Board and to the County Planning Board.

(1)

All proposed amendments, supplements or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within 30 days after receiving such referral. If the Planning Board fails to report within the required time, the Town Board may act without such a report.

(2)

On any amendment proposal before the Town Board, a copy of a description of the proposal shall be mailed to the Columbia County Planning Board in any case where the land involved in the proposal is within 500 feet of:

(a)

The boundary of any other municipality.

(b)

Any state or county park or recreation area.

(c)

The right-of-way of any state or county highway.

(d)

The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.

(e)

The boundary of any state- or county-owned land on which a public building or institution is situated.

(3)

No action shall be taken on proposals referred to the Columbia County Planning Board, until the County Board's recommendation has been received or 30 days have elapsed after the Board has received the full statement on the applicant's proposal, unless the county and the Town agree to an extension beyond the thirty-day requirement for the county's review.

C.

Hearing on proposed amendment. Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law.

D.

Adoption of amendment. After the public hearing, and referral to and report by the Planning Board, the Town Board shall act on the proposed amendment. A majority vote of the members of the Town Board shall be required to amend the Zoning Local Law, except as described in Subsection F below.

E.

Protest petition. If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of four members of the Town Board.

## § 205-16. Severability; interpretation; conflict with other laws; when effective.

A.

Severability. Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of the local law as a whole or any part thereof other than the part so declared to be invalid and only to the extent of such invalidity.

B.

Interpretation; conflict with other laws. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

C.

When effective. This chapter, together with the Zoning Map entitled "Zoning Districts of the Town of New Lebanon," shall take effect upon filing with the Secretary of State.

## § 205-17. Signs and posters.

A.

Intent and purpose. The intent of this section is to promote and protect the public health, safety and welfare of the residents of the Town by regulation of signage.

B.

Rules and regulations.

(1)

For purposes of determining number of signs under this section, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of the elements, each element shall be considered to be a single, separate sign.

(2)

For purposes of determining the surface area of a sign under this section, surface area shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign, and including all of the elements of the matter displayed; provided, however, that 50% of the total surface area of both sides of a freestanding sign or a projecting sign that is substantially perpendicular to the road or walkway and that contains identical content on both sides so as to permit observation of its messaging from either direction shall be excluded from such calculation. Frames and structural members not bearing letters, words, numbers, figures, emblems, logos, or pictures shall not be included in computation of surface area.

(3)

All exterior signs must be constructed of durable materials, shall be lettered in a professional and workmanlike manner and shall be maintained in good condition and repair at all times. Exterior signs and posters made of cardboard, paper or similar nonpermanent material are prohibited except for temporary signs.

(4)

All illuminated signs shall be constructed such that all transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.

(5)

Excepting portable and temporary signs, all signs and their structures shall be securely anchored and constructed to prevent lateral movement that would cause wear on supporting connections.

(6)

Signs and their structures must be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose fastenings. Signs and their structures must be maintained at all times in such a safe condition as not to be detrimental to the public health or safety.

(7)

No sign shall be placed in or projected onto the public right-of-way or placed so as to impair visibility for motorists. Signs shall not project over adjoining property lines.

(8)

Wall signs shall not extend above the roof or parapet of the building, shall not extend beyond the ends or over the top of the walls to which attached and shall not extend more than nine inches from the face of the buildings to which they are attached.

(9)

The height of a freestanding sign shall not exceed 30 feet.

(10)

Monument- or masonry-type signs or bases shall not exceed four feet in height.

(11)

The following signs are permitted in any zoning district:

(a)

One sign not exceeding two square feet;

(b)

On a farm, one additional sign not exceeding 16 square feet;

(c)

Three banners or flags not exceeding 15 square feet each;

(d)

Temporary signs that comply with Subsection F of this section.

(12)

In addition to any other signs permitted under this chapter, a place of worship, museum, library, school or government office shall be permitted to have a bulletin board not exceeding 24 square feet.

(13)

Business signs in a General Commercial, Central Commercial, Commercial-Residential, Commercial-Recreational, or Commercial-Industrial District. In the General Commercial, Central Commercial, Commercial-Residential, Commercial-Recreational, or Commercial-Industrial zoning districts, any legally established business use not constituting a home occupation, a home-based business, a short-term rental, a boardinghouse, self-storage facility, or a business located within a multibusiness complex, shopping center, or mall, shall be permitted to have the following signs in addition to those permitted by §: 205-17B(11):

(a) One freestanding sign not exceeding 24 square feet.

(b) One wall sign not exceeding the greater of 24 square feet or 1/2 square foot per linear foot of building frontage, but in no event larger than 100 square feet.

(c) One sandwich board sign not exceeding eight square feet of surface area on each side, provided that such sandwich board sign is removed daily.

(d) For each food truck operating on the property, one freestanding, one-sided sign not exceeding eight square feet of surface area or one sandwich board sign not exceeding eight square feet of surface area on each side, provided that such sign is removed daily.

(14)

Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.

(15)

Signs which are animated, flashing or with intermittent illumination are prohibited.

(16)

Feathered flag, tear drop flag and blade flag signs are prohibited.

(17)

No sign shall contain content that is obscene.

C.

Signs for Multi-Business Complexes, Shopping Centers, Malls, etc.

(1)

A multi-business complex, shopping center, or mall shall be permitted one freestanding sign not exceeding 24 square feet, plus 10 square feet for each individual business space therein; provided, however, that in no event shall the total surface area of such freestanding sign exceed 75 square feet, nor shall the total height of the freestanding sign exceed 30 feet.

(2)

Notwithstanding anything else to the contrary contained in this § **205-17**, a multi-business complex, shopping center, or mall shall be permitted one sign not exceeding 24 square feet for each individual business space therein, each such sign being attached to the building and located 18 inches or less from the building face and being located in general proximity to each individual business space.

D.

Any sign in disrepair or which becomes obsolete shall be repaired or removed at the expense of the property owner within 30 days of the date of an order to such effect issued by the Zoning Enforcement Officer. A permanently installed structure on which the sign is mounted need not be removed, provided the structure is in good repair and, to the extent any surface area formerly used for signage remains, such area is a neutral color and opaque. Any replaced or repaired sign must conform to all regulations in this chapter.

E.

A flora or stone sign may be permitted as long as it conforms to other regulations of the sign this chapter.

F.

Temporary Signs. Temporary signs shall comply with the following:

(1)

Each temporary sign shall not exceed six square feet in surface area.

(2)

Each temporary sign shall be located no closer than six feet from any roadway.

(3)

Temporary signs shall not be attached to any tree, utility pole, or road sign.

(4)

No temporary sign shall be displayed during any calendar year for more than two display periods, each of which shall not exceed 30 consecutive days and which display periods shall be at least 60 consecutive days apart.

G.

Exemptions. For the purpose of this chapter, the following signs shall not be included in the application of the regulations herein:

(1)

Historical markers.

(2)

Integral decorative or architectural features of buildings, except letters, numbers, trademarks, moving parts or moving lights.

(3)

Signs not in excess of two square feet in size that identify hours of operation.

(4)

Nonilluminated signs not in excess of two square feet in size that demark a property's boundaries.

(5)

Address signs not in excess of two square feet in size on multiple dwelling units.

(6)

Nonilluminated signs on the interior sides of fences which enclose athletic fields, as well as on scoreboards contained within such athletic fields.

(7)

Window and door signs and posters, provided that such do not exceed 25% of each window/door surface.

H.

Approvals. Excepting temporary signs, all signs require application for and issuance of a zoning permit from the Zoning Enforcement Officer and payment of any and all applicable application and permit fees.

I.

Nonconforming signs. A lawful pre-existing, nonconforming sign may be maintained subject to the provisions of this section.

(1)

Any existing on-premises sign which was legally constructed and erected under the sign provisions or other regulations set forth in the Zoning Code, Town Code or which was granted a variance may be continued and maintained; provided, however, that such sign may not be moved, altered, enlarged or modified unless such sign is changed to a conforming sign. Once modified or changed, such sign may not be changed back into a nonconforming sign.

(2)

All other signs in existence on the effective date of this chapter shall be made to conform to the standards herein or shall be removed within 60 days after receipt of written notice from the Zoning Enforcement Officer to the owner to comply.

J.

Sign schedule. The following sign schedule shall be read in conjunction with the rules and regulations set forth in this chapter:

Use	Zoning District	Maximum Size
Residential, home occupation	Residential	2 square feet

Use	Zoning District	Maximum Size
Short-term rental and boardinghouse	All zones or where ZBA allows	2 square feet
Farm	Residential	16 square feet
Banners or flags	All zones	15 square feet each
Bulletin board associated with a church, school or similar institutional structure	All zones	24 square feet
Business uses, except home occupation, home-based business, bed-and-breakfast, boardinghouse, and businesses located in multi-business complex	C, C-Rec, C-I, and C-R	Freestanding: 24 square feet Attached to building: greater linear foot of building frontage
Business, window/door	All zones	Not to exceed 25% of each window
Multi-business complexes, shopping centers, malls, etc.	Applicable zones	Freestanding: 24 square feet, individual business space the of sign shall not exceed 75 sq Attached to each business in
Real estate signs	All	6 square feet

## § 205-18. Solar energy systems.

### A.

Intent and purpose. The intent of this section is to advance and protect the public health, safety, and welfare of the residents of the Town by:

#### (1)

Taking advantage of a safe, abundant, renewable, and clean energy resource;

#### (2)

Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses;

#### (3)

Providing for the installation of solar energy systems that are consistent with the requirements of the Comprehensive Plan for the Town of New Lebanon with the goal of maintaining the community appearance and rural character of the Town; and

#### (4)

Balancing the potential impacts to the public and to neighbors when solar energy systems may be installed on property in the Town while preserving the rights of property owners to install solar energy systems without overly burdensome regulation.

B.

Applicability.

(1)

The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of these solar energy system regulations, excluding general maintenance and repair, or to solar energy system installations for which a valid building permit has been issued before the effective date of this section.

(2)

All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards, including without limitation the New York State Uniform Fire Prevention and Building Code (including the Electrical Code), the Town Code, and any other applicable regulations. To the extent any provision of this Section 205-18 conflicts with any other applicable code, regulation or industry standard, the provision, code, regulation or standard that is more protective of health and safety shall control.

C.

Solar energy systems as an accessory use or structure. This section pertains to roof-mounted solar energy systems and ground-mounted solar energy systems for on-site consumption. These types of solar energy systems shall be considered accessory uses and are subject to the specific regulations below.

(1)

Roof-mounted solar energy systems.

(a)

A building permit shall be required for installation of all roof-mounted solar energy systems.

(b)

Roof-mounted solar energy systems that use the generated electricity on site or off site are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

(c)

Roof-mounted solar energy systems shall be exempt from site plan review under this chapter.

(d)

Buildings with roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located. The solar energy system shall be included in the calculation of height. The height exemptions for other equipment and structures as provided in § **205-7B(8)** of this chapter remain applicable.

(e)

Solar panels on a roof-mounted solar energy system shall be mounted with a maximum distance (tilt or cant) of 18 inches between the roof and highest edge of the solar energy system component.

(f)

Solar energy systems that are mounted on a flat roof shall be exempt from the maximum distance (tilt/cant) requirement of the foregoing subsection; however, the system shall be screened from the road frontage adjacent to the property using building materials or natural materials, such as vegetation and berms. A plan for such screening shall be depicted as supplementary documentation to the building permit.

(g)

Before a roof-mounted solar energy system is first energized, the property owner and solar installer must contact the emergency responders to provide information and instruction on how to use the

emergency disconnect to power down the solar energy system and to show responders the location for the emergency disconnect. Roof-mounted solar energy systems shall be labeled in order to provide emergency responders with appropriate warning and guidance with respect to isolating and disconnecting the solar electric system. Materials used for labeling shall be weather resistant. In addition, all roof-mounted solar energy systems must include a setback from the edge and peak of the roof to provide access and a path for firefighters.

(h)

All owners of property upon which a roof-mounted solar energy system which primarily produces electricity for off-site consumption is located are required to enter into contracts with the Town to make payments in lieu of taxes (PILOT). The amounts of the PILOT cannot exceed the amounts which would have been payable if not for the exemption.

(2)

Ground-mounted solar energy systems for on-site consumption.

(a)

A building permit shall be required for installation of all ground-mounted solar energy systems for on-site consumption.

(b)

Ground-mounted solar energy systems for on-site consumption that use the generated electricity primarily on site are considered accessory structures.

(c)

Ground-mounted solar energy systems that use the electricity primarily on site and that have an aggregate surface area coverage no greater than 1,000 square feet shall be exempt from site plan review under this chapter.

(d)

Ground-mounted solar energy systems for on-site consumption that have an aggregate surface area coverage that exceeds 1,000 square feet shall be subject to site plan review and the issuance of a special use permit.

(e)

Height, setback and lot coverage. Ground-mounted solar energy systems shall adhere to the height, setback and lot coverage requirements of the zoning district within which they are located, subject to the following additional conditions:

[1]

Height restrictions will apply to structures when oriented at maximum tilt and are provided the same height exemptions as provided in § **205-7B(8)** of this chapter.

[2]

Ground-mounted solar energy systems for on-site consumption shall adhere to the setback requirements of the district in which they are located and shall only be located in the side or rear yards of lots.

[3]

The surface area covered by ground-mounted solar panels in these systems, combined with any other accessory structures on the lot, shall not exceed 30% of the lot coverage.

(f)

Ground-mounted solar panels shall be surfaced, designed, sited and installed so as not to cause glare onto adjacent properties and roadways.

(g)

Before a ground-mounted solar energy system for on-site consumption is energized for the first time, the property owner and solar installer must contact the Town's emergency responders to provide information and instruction on how to use the emergency disconnect to power down the solar energy system and the location for the emergency disconnect. All disconnects shall be clearly labeled in order to provide emergency responders with appropriate warning and guidance with respect to disconnecting the solar electric system. Materials used for labeling shall be weather resistant.

(h)

Ground-mounted solar energy systems for on-site consumption shall be exempt from additional real property taxation to the extent of any increase in the value which is attributable to the solar energy system, provided that the array does not generate more than 125% of the total energy consumed at the site. In the event the energy generated by the array exceeds 125% of the usage in any year, the property shall not qualify for the exemption in the following year, and the owner will be required enter into a contract with the Town to make payments in lieu of taxes. Proof of generation and consumption must be provided on an annual basis to the Town Clerk and the Assessor.

D.

Large-scale solar energy systems. Large-scale solar energy systems, which term includes, but is not limited to, community solar energy systems, have a greater impact on the land and Town. As such, these systems shall be subject to the following regulations:

(1) Approval standards for applications for large-scale solar energy systems.

(a) Large-scale solar energy systems are permitted in the Solar Overlay District upon the granting of a special use permit and subject to site plan approval by the Planning Board. Where a large-scale solar energy system is present on site, it will be considered a principal use on that site.

(b) Special use permit application requirements and conditions. A special permit application shall be subject to these additional special use permit standards and requirements:

[1] If the property of the proposed project is to be leased, legal consent to the solar use between the owner and tenant, specifying the use(s) of the land for the duration of the lease, including information on any necessary easements and other agreements, shall be submitted with the application, and both parties must sign the application. The lease agreement must contain a provision which specifies the rights and/or obligations regarding decommissioning.

[2] All special use permit applications for large scale solar energy systems shall be accompanied by the application fee designated therefor in the Town of New Lebanon Fee Schedule.

[3] Site plans conforming to the requirements described in § 205-14 depicting the layout of the solar energy system signed by a professional engineer or registered architect shall be required.

[4] The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, inverters and any other equipment that are to be installed.

[5] Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

[6] Decommissioning plan. To ensure the proper removal of large-scale solar energy systems and community solar energy systems, a decommissioning plan shall be submitted as part of the

application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section. The decommissioning plan must specify that after the solar energy system is no longer producing power for a period of 12 months, it shall be removed by the property owner within 90 days of notification from the Town requiring removal. The plan shall demonstrate the existing conditions on the site before construction of the array, the plan for removal, including the disposal or recycling of its components, together with the restoration of soil and vegetation to return the parcel to its original state prior to construction. All aboveground and below-ground equipment, structures and/or foundations associated with the solar energy system must be removed during decommissioning. The plan shall include an expected time line for removal of the equipment and restoration of the site. A cost estimate detailing the projected costs associated with the decommissioning shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation.

[7] Performance bond. Prior to issuance of a building permit, the property owner or operator of the solar energy system shall post a performance bond or other suitable guarantee in a face amount of the estimated cost of decommissioning as provided in the cost estimate approved by the Town Engineer, together with the cost of inflation over the anticipated life of the array. For the special use permit to remain in effect, the cost estimate and performance bond shall be reviewed and adjusted at five-year intervals. The approvals allowing the use shall be suspended or revoked pending the replenishment of the financial obligation. The form of the guarantee must be reviewed and approved by the Town Engineer and the Town Attorney. Review of the guarantee by the Town Engineer and Town Attorney shall be paid from an escrow established by the applicant, which shall be required to be funded in advance of review of the project. In the event of a default upon performance of such condition or any of them, the bond or security shall be utilized by the Town to perform all necessary decommissioning work to remove the array and restore the property. The bond or security shall remain in full force and effect until the removal of the solar energy equipment and complete restoration of the site. Proof of maintenance of the bond or security shall be submitted by the property owner or operator on an annual basis to the Town Clerk by February 1 of each year.

(2) Special use permit and site plan standards. The review of an application by the Planning Board shall be subject to the following standards, in addition to those contained in the special use permit and site plan sections of this chapter:

(a) Size, height and setback.

[1] No parcel shall include one or more large scale solar energy systems that, in the aggregate, exceed a nameplate capacity of 5 megawatts alternating current.

[2] The applicant shall demonstrate that the hosting capacity of existing public utility infrastructure to which the large-scale solar energy system is to be connected is sufficient to support the total energy generating capacity of the proposed large-scale solar energy system.

[3] Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district in which they are located.

[4] In addition to adhering to the otherwise applicable height and setback requirements of the underlying zoning district, no component of any large scale solar energy system may be located within 75 feet of the front lot line or 35 feet of any side or rear lot line.

(b) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. The type of fencing shall be determined by the Planning Board as part of site plan review.

(c) The owner or operator of the solar energy system must have identification and contact information and appropriate warning signage posted at the entrance to the solar energy system and be clearly visible. Signage shall list the facility name, owner or operator and phone number. A clearly visible warning sign concerning voltage shall be placed at the base of all inverters, transformers and/or substations and in such other locations as the Planning Board determines is necessary.

(d) Large-scale solar energy systems shall also adhere to the following design requirements:

[1] Any buildings, inverters, transformers and/or substations and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment and/or be screened from view.

[2] Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction, while providing sufficient ability to accommodate fire and other emergency apparatus.

[3] As determined necessary by the Planning Board, a landscaped buffer shall be provided around all equipment and solar energy systems to provide screening from neighboring residences and roadways.

[4] Solar panels and equipment shall be surfaced, designed and sited in order to prevent reflective glare onto any inhabited buildings on adjacent properties as well as roadways.

[5] Where practicable, on site utility and transmission lines shall be placed underground if they would be visible and are unable to be adequately screened.

[6] All mechanical equipment, including any structure for batteries or storage cells, shall be completely enclosed by a minimum six-foot-high fence with a self-locking gate, and provided with landscape screening. Fire and emergency responders must have access to the equipment, which may be accomplished with use of a Knox-Box® or other equipment as recommended by the emergency responders.

(e) Any batteries or storage cells, when no longer in use, shall be disposed of in accordance all applicable federal, state, county, and local laws and regulations.

(f) Any application under this section shall meet any substantive provisions contained in the site plan requirements of this zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. If any site plan requirement is determined by the Planning Board as not applicable, the Planning Board may waive that requirement in its site plan review.

(g) The Planning Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

(3) Other requirements applicable to large-scale solar energy systems.

(a) The operator shall maintain general liability insurance coverage on any solar energy system in the amounts of \$1,000,000 for injuries and \$500,000 for property damages, naming the Town of New Lebanon as additional insured.

(b) If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof the property of the Town of New Lebanon, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of the damage, completely replace or repair all damage to the satisfaction of the Town.

(c) Any damaged or unused components of the system shall be removed from the premises within 30 days and disposed of legally. All maintenance equipment and spare parts shall be kept in a designated storage area which is fenced and screened. Petroleum products shall be disposed of legally.

(d) If the ownership of a solar energy system changes, the special use permit and site plan approvals shall remain in full force and effect providing all the conditions of the special use permit, including bonding, letters of credit or continuing certification requirements or obligations continue to be obligations of successor owners. The change in ownership shall be registered with the Code Enforcement Officer.

(e) Any and all modifications, additions, deletions, or changes to the solar energy system, whether structural or not, shall be subject to the Planning Board's approval as an amendment of the special use permit and/or site plan, except that such amendment shall not be required for repairs which become necessary in the normal course of use of such system.

(f) An inspection report prepared by an engineer approved by the Town and licensed in the State of New York shall be required at the time of installation and every three years thereafter. The cost for this inspection shall be borne by the applicant. The inspection report is required at the time of installation and in advance of powering the system for use. Thereafter, it shall be done to inspect all components of the solar energy system to ensure proper operation. The inspection report must be filed with the Code Enforcement Officer.

(g) No part of the solar farm/power plant, including the structure and panels, shall be used for the display of any advertising, decorative flags, streamers, or any other decorative items.

(h) When any solar energy system is installed and before it becomes active, the owner of the site and/or developer of the solar array must contact the New Lebanon Fire Department emergency responders to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. In addition, during site plan, the Planning Board shall determine the appropriate size and location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

(i) Review of the application for any necessary approvals of any solar energy system under this section shall be conducted by the Town Engineer and Town Attorney. This review shall be funded by the applicant and paid from an escrow fee required at the time of application, and which shall be replenished upon invoice from the Town before additional review of the project by the Planning Board is able to proceed.

(j) If construction of a project is not completed within 12 months after receiving final site plan approval, and the project has not been abandoned, a new special use permit must be obtained.

(k) All owners of property upon which a large-scale solar energy system is located are required to enter into contracts with the Town to make payments in lieu of taxes (PILOT).

## § 205-19. (Reserved)

## § 205-20. Definitions.

### A.

Any term used in this chapter which is not defined hereinbelow shall carry its customary meaning or that according to the New York State Building Code unless the context otherwise dictates.

### B.

Words used in the present tense include the future tense. The singular includes plural. The word "person" includes a "corporation" as well as an "individual." The word "lot" includes the word "plot" or "parcel." The term "shall" is always mandatory. The word "used" or "occupied" as applied to any lot and or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

### C.

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

#### **ACCESSORY DWELLING UNIT**

See Dwelling Unit, Accessory

#### **ACCESSORY USE**

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

#### **ADULT USE**

See Chapter **60** of the Code of the Town of New Lebanon.

#### **AGRICULTURAL DATA STATEMENT**

See definition for "agricultural data statement" in New York Agriculture and Markets Law § 301.

#### **AGRICULTURAL OPERATION**

A farm operation, as defined in New York State Agriculture and Markets Law § 301.

#### **AGRITOURISM**

Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agritourism activity shall be secondary to the primary farm use. Agritourism activities may be conducted in an accessory building or structure and include, but are not limited to, on-farm short-term rentals, farm stay programs, u-pick operations, pumpkin patches and on-farm wineries, breweries, cideries, and distilleries.

#### **ALTERATIONS**

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

#### **AREA REGULATIONS**

The regulation of building size, setbacks or yards, parking and loading requirements and similar regulations, but excluding any performance standards.

#### **AUCTION SALES**

The use of land and/or buildings for the public sale of goods to the highest bidder. For the purposes of this chapter, such use shall not include the sale of livestock and shall not be considered a store.

#### **AUTOMOBILE**

See "motor vehicle."

### **AUTOMOBILE RACING FACILITY**

A facility designed for the outdoor recreation involving automobile racing, with or without spectators. For the purposes of this chapter, this use may include the racing of vehicles such as, but not limited to, motorcycles, dirt bikes, snowmobiles, jet cars, trucks and fire trucks.

### **BANK**

An establishment that accepts deposits, pays interest, clears checks, makes loans, acts as an intermediary in financial transactions, and provides other financial services to its customers.

### **BANNER or FLAG**

Piece of cloth, nylon, synthetic cloth, or similar material bearing a symbol, logo, slogan or other message, usually in a square or rectangular shape.

### **BAR**

Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

### **BOARDINGHOUSE**

An owner- or operator-occupied dwelling used by fee-paying guests paying for sleeping accommodation with or without the provision of meals.

### **BOND**

A written agreement issued by a qualified agent, which guarantees either the performance of a certain agreed-upon activity or an equivalent consideration if the activity is not completed as required.

### **BOWLING ALLEY**

A recreational business that accommodates bowling. Food and beverages may be sold on premises, provided such food and beverage sales are accessory to the principal use of recreational bowling.

### **BUFFER AREA/BUFFER ZONE**

Open space, landscape areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another use or property so as to visually shield or block noise, light, or other nuisances.

### **BUILDABLE AREA**

The space remaining on a legal lot after the minimum yard, area and bulk requirements have been met.

### **BUILDING**

Any structure other than a boundary wall or fence.

### **BUILDING, ACCESSORY**

A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

### **BUILDING COVERAGE**

The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area. Such coverage is to be measured at mean grade level and excludes uncovered porches, terraces, and steps.

### **BUILDING ENVELOPE**

The space within which a structure is permitted to be built on a lot and that is defined by minimum yard setbacks and includes all disturbances for building, driveways, well and septic systems.

### **BUILDING, FRONT LINE OF**

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

### **BUILDING HEIGHT**

The vertical distance measured from the mean elevation of the proposed finished grade at the front entrance of the building to the maximum structural ridge of the roof.

### **BUILDING, PRINCIPAL**

A building in which is conducted the main or principal use of the lot on which said building is situated.

### **BUS STATION**

A lot, structure, or building used for the boarding and exiting of buses, the selling of transport tickets, the incidental sale or dispensing of food and drink, and the incidental storage of buses.

**CAMPGROUND**

Any lot, or adjoining lots if under the control of one person or business, including buildings and other structures on such lot, on which are located five or more campsites, tents, tent houses, trailers, cabins, camp cottages, vehicles, including recreational vehicles, or other structures intended for temporary or seasonal overnight occupancy. Excluded from this definition is the use of the yard of an existing occupied residence for occasional and irregular overnight camping by i) family members or guests of the resident or ii) groups (such as scouts), being hosted by the resident.

**CANNABIS CONSUMPTION FACILITY**

A facility or business at which the consumption of cannabis is allowed pursuant to a lawfully issued license for an adult-use cannabis on-site consumption location under the N.Y. Cannabis Law and regulations promulgated thereunder.

**CANNABIS RETAIL DISPENSARY**

A facility or business engaged in the acquisition, possession, sale and delivery of cannabis to cannabis consumers pursuant to a lawfully issued license for an adult-use cannabis retail dispensary under the N.Y. Cannabis Law and regulations promulgated thereunder, and not including any licensed adult-use cannabis on-site consumption facility.

**CAR WASH**

A structure containing facilities for washing motor vehicles.

**CELLULAR TOWER**

See "telecommunications tower."

**CEMETERY**

A place for the interring of the deceased.

**COMMERCIAL EVENT VENUE**

Any land(s), building(s), structure(s), improvement(s), or equipment used to hold events, such as weddings, parties, meetings, family reunions, corporate events, and similar gatherings, where any fee(s) or remuneration(s) are payable or paid therefor to the owner or operator thereof.

**COMMERCIAL EXCAVATION**

The use of land for quarrying, soil mining, the removing of fill gravel, stone or other earth materials, and for commercial (sale) purposes.

**COMMERCIAL TRADES OPERATION**

General contractors, masons, painters, refrigeration contractors, HVAC contractors, roofers, carpenters, small-scale excavating contractors and similar operations.

**COMMERCIAL/SPECIAL PURPOSE VEHICLE**

Any truck or van used in connection with operating a business.

**COMMUNITY SOLAR ENERGY SYSTEM**

An arrangement that extends net metering to groups of renters, homeowners, businesses, and municipalities that subscribe to the benefits of a portion of a solar energy project, of which 75% of the total capacity of energy generated by the array shall inure to the benefit of the residents, businesses and/or property owners in the Town of New Lebanon. This arrangement is also commonly referred to as "Community Distributed Generation (CDG)." For purposes of regulations, these systems shall be considered as a large-scale solar energy system.

**COMPACT HOME**

A dwelling unit that is 400 square feet or less, excluding lofts, that includes complete housekeeping facilities, including for living, sleeping, eating, cooking, and sanitation, and that complies with the requirements of the New York State Uniform Fire Prevention and Building Code, as in effect from time to time, that apply thereto. This term includes compact homes that are movable, provided that they are registered with the New York State Department of Motor Vehicles as may be required, and comply with the American National Standards Institute (ANSI) standards and National Fire Protection

Association (NFPA) standards applicable thereto as in effect from time to time (e.g., ANSI Standard No. A119.2, ANSI Standard No. A119.5, NFPA Standard 1192).

**COMPREHENSIVE PLAN**

The long-range plan intended to guide growth and development of the Town, expressing official policy on the course of its housing, public utilities, community facilities, transportation and land use distribution and intensity and adopted according to New York State Town Law § 272-a.

**CONSERVATION SUBDIVISION**

A subdivision approved by the Planning Board that employs relaxed area and bulk requirements otherwise applicable so as to provide open space and natural resource protection. A conservation subdivision may include clustering but may also be approved for subdivisions involving as few as two resulting lots.

**CONVENIENCE STORE**

A freestanding retail store offering primarily packaged groceries and offering token selections of a wide variety of sundries. Convenience stores shall be a maximum of 5,000 square feet and shall not include the dispensing of gasoline or other motor vehicle fuels unless appropriate approvals for a gas station have been obtained.

**CONVERSION**

A change in use or occupancy of a dwelling.

**COVERAGE**

That percentage of the plot or lot area covered by the building area, including accessory structures.

**DANCE HALL**

A structure used for the purpose of dancing where food and beverages may be provided as accessory use.

**DAY-CARE CENTER**

A place other than an occupied residence, providing or designed to provide day care for any number of individuals.

**DAY CARE, IN-HOME**

Daytime care or instruction of three or more individuals away from their own homes conducted in a residence for more than three but less than 24 hours per day on a regular basis by an individual, association, corporation, institution or agency, whether or not for compensation. Day care is an HO2 or HO3 use.

**DENSITY**

The ratio of lot area per family or dwelling unit on a lot.

**DISTURBANCE**

All land preparation activities involving the movement, placement, removal, transfer or shifting of soil and/or vegetation, including but not limited to clearing, draining, filling, grading, regrading or the building of structures or the placement of improvements on land, including the construction of individual sidewalks, paths, roads or driveways. The condition of land disturbance shall be deemed to continue until the area of disturbance is returned to its original state or to a state complying with a permit for such disturbance granted in accordance with this chapter.

**DRIVING RANGE**

A tract of land used for practicing golf shots, especially drives, where clubs and balls may or may not be available for rent.

**DWELLING**

A building designated or used as the living quarters for one or more families.

**DWELLING, MULTIFAMILY**

A dwelling or group of dwellings on one plot containing separate living units for three or more families for lease or rent only.

**DWELLING, ONE-FAMILY**

A detached building designed for or occupied exclusively by one family.

**DWELLING, TWO-FAMILY**

A building designed for or occupied exclusively by two families living independently of each other.

**DWELLING UNIT**

A building or portion thereof providing complete housekeeping facilities for one family.

**DWELLING UNIT, ACCESSORY (ADU)**

A dwelling unit that is an accessory use to a one-family dwelling, two-family dwelling, or multifamily dwelling located on the same lot, and which has independent living facilities, permanent provisions for sleeping, cooking, and sanitation, and has an entrance, all of which are separate and independent from the one-family dwelling, two-family dwelling, or multifamily dwelling. An ADU may be within, attached to, or detached from the one-family dwelling, two-family dwelling, or multifamily dwelling.

**EXCAVATION**

Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

**FAMILY**

One or more persons maintaining a common household.

**FARM**

A farm operation, as defined in New York State Agriculture and Markets Law § 301.

**FARM MARKET**

A permanent year-round structure for the purpose of the retail sale of farm produce and agricultural products, whether produced on premises or elsewhere.

**FARMSTAND**

A roadside structure, not to exceed 300 square feet and set back at least 15 feet from the road, which is used seasonally for the sale of farm produce and agricultural products produced on premises and which produce/products are immediately accessible to customers without entering a structure.

**FENCE**

An artificially constructed barrier or enclosure used to delineate an area or boundary to screen such area from view and/or to limit access. Swimming pool enclosures shall require a building permit.

**FIRE/EMERGENCY RESPONSE STATION**

A facility where fire/emergency vehicles and equipment are housed.

**FLEA MARKET or FARMERS' MARKET**

An occasional or periodically held market in an open area or structure where spaces (e.g., booths, tables, stands, etc.) are rented or otherwise made available to groups or individual vendors who offer goods or services for sale to the public, and which may include live or recorded entertainment and prepared food/beverage service for on-site consumption. This does not include individual garage or tag sales.

**FLOODPLAIN**

A land area adjoining a river, stream, watercourse, bay or lake that is likely to be flooded.

**FLOOR AREA**

The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**FOOD TRUCK**

A mobile food service operation located in a licensed motorized vehicle or a movable cart, stand, or trailer and from which food and beverages (prepackaged or prepared and served from the vehicle or stand) are sold or distributed in individual portions to the general public directly therefrom for consumption on or off of the premises.

**FOOD TRUCK OPERATOR**

The owner of a food truck or such owner's agent or employee. Where the food truck is a motorized vehicle required by law to be registered, the registered owner of such food truck shall be deemed a food truck operator.

**FRONTAGE**

That side of the lot nearest the street. A corner lot shall be considered to have two such frontages.

**FUNERAL PARLOR**

An establishment with facilities for the preparation of the dead for burial or cremation; for the viewing of the body; and for the conduct of funerals.

**GARAGE SALE**

The sale of household items displayed in a yard, garage, barn or porch of a residence, provided that the items are owned by the persons conducting the sale, one of whom must be the occupant of the residence where the sale is being held, and the duration of the sale is limited to no more than two consecutive weekends. Households may conduct or participate in such sales no more frequently than once per six-calendar-month period. "Garage sale" includes "porch sale," "yard sale," "tag sale" and all other similar sales.

**GLARE**

The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GREENHOUSE**

A building chiefly comprised of a transparent or translucent material on its roof and/or walls and which is used for cultivating plants.

**GROCERY STORE**

A commercial establishment for the retail sale of food and related consumable items.

**HARMONIZE**

To arrange different uses, buildings and/or structures in a pleasing manner.

**HILLTOP**

See "ridgeline."

**HISTORIC PRESERVATION**

The protection, rehabilitation and restorations of districts, sites, buildings, structures and artifacts significant in American history, architecture, archaeology or culture.

**HOME OCCUPATION**

A profession or other occupation conducted within a dwelling unit by one or more persons residing therein and clearly incidental to the principal use of the lot for residential purposes and which does not constitute a home-based business as defined in this chapter. In particular, a home occupation includes, but is not limited to, art studios, dressmaking, teaching, offices of a clergyman, lawyer, landscape architect, physician, dentist, architect, engineer, optician, realtor, accountant, barbershop, beauty parlor, or similar use, but shall not include animal hospital or dog kennels, automotive repair service, restaurant, clinic or hospital or similar use.

**HOME OCCUPATION 1 (HO1)**

A home occupation that meets all of the following criteria:

(1)

No signs are located on the subject property, except as permitted by § **205-17B(11)** of this chapter;

(2)

The profession or occupation is carried on totally within the confines of the buildings on the subject property;

(3)

The profession or occupation is carried on exclusively by one or more persons that reside within the dwelling unit;

(4)

The profession or occupation will not produce visits to the property by customers, clients, colleagues, employees, or contractors;

(5)

Any deliveries made in connection with the profession or occupation are made by vehicles that do not exceed the size of typical vehicles used to deliver mail, parcels, or packages to the residence;

(6)

No more than one commercial or special purpose vehicle, which vehicle shall not exceed 1 1/2 tons in capacity and 24 feet in length, is parked on the subject property; and

(7)

All materials and other equipment used in connection with the profession or occupation are stored within the principal building or an accessory building on the property.

#### **HOME OCCUPATION 2 (HO2)**

A home occupation that does not constitute a Home Occupation 1 (HO1) and that meets all of the following criteria:

(1)

No signs are located on the subject property, except as permitted by § **205-17B(11)** of this chapter;

(2)

The profession or occupation is carried on totally within the confines of the buildings on the subject property;

(3)

The profession or occupation is carried on by at least one person that resides within the dwelling unit and no more than two persons that do not reside within the dwelling unit;

(4)

No more than one commercial or special purpose vehicle, which vehicle may exceed 1 1/2 tons in capacity and 24 feet in length, is parked on the subject property; and

(5)

All materials and other equipment used in connection with the profession or occupation are stored within the principal building or an accessory building on the property.

#### **HOME-BASED BUSINESS**

A business or profession in which various administrative tasks are conducted on the property by a person residing therein and which is clearly incidental to the principal use of the lot for residential purposes, but where the business or profession primarily provides goods and/or services off-site. Home-based businesses may include, but are not necessarily limited to, landscapers, plumbing contractors, electrical contractors, carpenters, painters, and similar professionals/artisans.

#### **HORSE BOARDING OPERATION**

A commercial horse boarding operation, as defined in New York State Agriculture and Markets Law § 301.

#### **HORSE FARM**

A commercial equine operation, as defined in New York State Agriculture and Markets Law § 301.

#### **HOSPITAL**

Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of human ailments.

#### **HOTEL**

A building containing more than five rooms for sleeping purposes which are used or rented by fee-paying guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

#### **IMPERVIOUS SURFACE**

Any material that prevents absorption of stormwater into the ground.

#### **INDUSTRIAL, LIGHT**

Includes limited manufacturing, wholesaling, warehousing, research and development, and related commercial/service activities such as beverage bottling, distribution and warehousing; distribution centers; ice production, storage, sales and distribution; laboratories for research, testing and

experimental purposes; machine shops; manufacture of computers, computer peripherals, electrical appliances, electronic equipment, medical instruments, and other similar products from previously manufactured components; manufacture of precision instruments and equipment such as watches, electronics equipment, photographic equipment, optical goods and similar products; manufacturing of articles or merchandise from previously prepared or natural materials such as cardboard, cement, cloth, cork, fiber, glass, leather, paper, plastics, wood, metals, stones and other such prepared materials; printing and publishing.

#### **JUNK VEHICLE**

Any vehicle which:

##### **(1)**

For any reason is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power (such as an automobile, bus, truck, motorcycle, etc.) or is incapable without repair of being drawn or towed, if it is a vehicle (such as a trailer) originally designed to be towed or drawn from behind an internally powered vehicle;

##### **(2)**

As judged by the standards of an ordinary reasonable person, is unsightly in appearance because of the existence of one or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows, absence of component parts of the vehicle (such as fenders, panels, doors, tires, wheels, grille, roof, tailgate); physical parts of the vehicle; absence of interior components (such as seats, dashboard, interior door moldings, etc.); or

##### **(3)**

Is incapable of being moved or propelled, drawn or towed without repair as provided in Subsection **(1)** above and has remained situated on any real property for a period in excess of 90 days.

#### **KENNEL, BOARDING**

A structure used for the harboring of more than three dogs that are more than six months old, for remuneration.

#### **KENNEL, BREEDING**

A structure used for the harboring of more than three dogs that are more than six months old and without remuneration.

#### **LAND USE ACTIVITY**

Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits. This shall include, but is not limited to, residential structures, commercial buildings, residential or commercial accessory structures, signs, parking lots, communications towers, mines, roads, ponds, and windmills.

#### **LAUNDROMAT**

An establishment providing washing, drying or dry-cleaning machines on the premises for rental use to the general public.

#### **LIBRARY**

A facility that houses a collection of books or other written, printed or digital material, including manuscripts and pamphlets, posters, photographs, motion pictures, and videotapes, sound recordings, and computer databases and that may sponsor or hold community events, such as concerts, seminars, talks, fundraising events, and similar events.

#### **LINE, STREET**

The dividing line between the street and the lot.

#### **LIVESTOCK**

Animals considered livestock under the New York State Agriculture and Markets Law, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, and wool-bearing animals, such as alpacas and llamas.

**LIVING AREA**

The interior habitable area of a dwelling unit, including basements and attic spaces lawfully used as habitable space, and excluding garages and accessory structures.

**LOT**

A parcel of land occupied or capable of being occupied by one building or use and the necessary buildings or uses customarily incident to it, including such open spaces as are required by this chapter.

**LOT, CORNER**

A parcel of land at the junction of and fronting on two or more intersecting streets.

**LOT, DEPTH OF**

The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**LOT LINE**

Any line dividing one lot from another.

**LOT LINE, FRONT**

The line of the lot located at the street right-of-way.

**LOT LINE, REAR**

The lot line most nearly opposite the front lot line and the one most parallel and closest to the front line.

**LOT LINE, SIDE**

Any lot line not a front lot line or a rear lot line is a side lot line.

**LOT, WIDTH OF**

The horizontal distance between the side lines of a lot measured a right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

**MANUFACTURED HOME**

A structure, intended primarily for residential occupancy that is transportable in one or more sections. In traveling mode, the home is eight feet or more in width and 40 feet or more in length. A manufactured home is one that was built after June 15, 1976, and is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled. Manufactured homes do not include modular homes, travel trailers or recreational vehicles or trailers.

**MANUFACTURING**

Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.

**MINIATURE GOLF**

A game modeled on golf played with a putter on a short grassless course that may include obstacles.

**MIXED USE**

A use of property consisting of two or more constituent uses, each of which are permitted in the zoning district in which the property is located (including, as may be applicable, any overlay district). In the event a mixed use property is located within more than one zoning district, any constituent use thereof must be physically located within a zoning district in which such constituent use would otherwise be permissible and within which mixed use is permissible.

**MIXED USE PROPERTY**

A property on which a mixed use is conducted.

**MOBILE HOME**

A manufactured home built prior to June 15, 1976.

**MOBILE HOME PARK**

Facilities for the locating for residential occupancy of two or more manufactured or mobile homes on a permanent or transient basis.

**MODULAR HOME**

A structure designed primarily for residential occupancy that is substantially fabricated in a factory and designed for permanent installation on a permanent foundation to form a permanent single-family, townhouse or multifamily unit and which meets all New York State requirements and standards concerning factory-manufactured homes and conforms to the New York State Uniform Fire and Building Codes.

**MORTUARY**

A place for the storage of human bodies prior to their burial or cremation.

**MOTEL**

A building or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters with direct outside access and related office, and with or without restaurant facilities, designed primarily for transient travelers, and provided with the accessory off-street parking facilities. The term "motel" includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be construed to include parking areas for house trailers or mobile homes or to include dwelling units, except for that of the owner or manager.

**MOTOR VEHICLE**

Any device that is designed, manufactured or modified to be as a self-propelled conveyance of persons or objects by any power other than muscular power, including automobiles, cars and trucks. Vehicles, such as a trailer, that are designed to be towed or drawn from behind an internally powered vehicle and that are subject to registration are included in this definition.

**MOTOR VEHICLE FUELING STATION**

Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**MOTOR VEHICLE REPAIR SHOP**

A building, premises, and land in which or upon which a business involving the maintenance, servicing, repair, or painting of motor vehicles is conducted.

**MOTOR VEHICLE SALES**

The use of any building, land area or other premises for the display and sale of new or used motor vehicles and including any vehicle preparation or repair work conducted in connection with such sales.

**MULTI-BUSINESS COMPLEX, SHOPPING CENTER, MALL**

A structure or series of connected structures that contains three or more businesses.

**MUSEUM**

An organized institution, including but not limited to halls of fame, zoos, aquariums, botanical gardens and arboretums, that is essentially educational or aesthetic in purpose, with professional staff, which ordinarily owns, exhibits, maintains, and/or utilizes artifacts, art, and/or specimens, including nontangible electronic, video, digital and similar art, cares for them, and exhibits them to the public on some regular schedule.

**NET METERING**

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

**NEW YORK STATE CERTIFIED AGRICULTURAL DISTRICT**

Is a district created under Article 25-AA of the Agriculture and Markets Law with the intent to provide for the protection and enhancement of agricultural land as a viable segment of the local economy and environmental resource of major importance.

**NONCONFORMING BUILDING**

A lawfully existing building or structure which does not conform to the area setback regulations of the district in which it is located.

**NONCONFORMING LOT**

A lawfully existing lot which does not conform to the area regulations (minimum lot width and/or lot size) of the district in which it is located.

**NONCONFORMING USE**

A lawful use of a structure, building or land which does not conform to the use regulations of the district or zone in which it is situated.

**NURSING HOME**

Premises which provide lodging, meals and continuing nursing care for compensation to convalescent or chronically ill persons. The term "nursing home" shall include convalescent home and rest home.

**OFFICE, PROFESSIONAL**

An office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge.

**OFFICIAL MAP**

The map established by the Town Board under New York State Town Law § 270 showing streets, highways and parks.

**OPEN SPACE**

Land left in a natural state for conservation and agricultural purposes or land landscaped for scenic purposes, devoted to active or passive recreation, or devoted to the preservation of distinctive architectural, historic, geologic or botanic sites. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure. Open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot, but shall not include private yards within 50 feet of a principal structure.

**PERSONAL SERVICE**

An establishment primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, such as a beautician, barber, tailor, or massage therapist.

**PLACE OF WORSHIP**

A building or structure, or group of buildings or structures, that by design and construction is primarily intended for conducting organized religious services and associated accessory uses.

**POND**

A body of water that has a depth of three feet or more below surrounding ground elevation.

**PREMISES**

A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

**PRIVATE RECREATION AREA**

The use and ownership of land or structures by an organization, catering exclusively to members and their guests, used for recreational and athletic purposes (including archery or firearm activities), and not involving vending or merchandising or other commercial activities except as required generally for the membership and purposes of such organization.

**PRIVATE SCHOOL**

Private profit or nonprofit facility designed and used primarily as an educational institution, providing teaching and classes for its enrollees, with or without sleeping and eating facilities for the employees and enrollees.

**PUBLIC PARK**

A property or structures designated for public access with or without a fee. A park owned and/or operated by the Town shall be considered a Town use.

**RAVINE**

A valley with sharply sloping walls created by the action of stream waters or any other natural effect.

**RESEARCH**

An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

**RESTAURANT (NO DRIVE-THROUGH)**

Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises or elsewhere (takeout), whether food is served upon order or taken by self-service and where there are no facilities for drive-through service.

**RESTAURANT (WITH DRIVE-THROUGH)**

An establishment where food and/or beverages are sold in a form ready for consumption, where some portion of the consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pickup of food may take place outside the building.

**RETAIL USE, RETAIL BUSINESS, STORE OR SHOP**

Traditional establishments, such as florists, lumber and hardware stores, pharmacies, grocery stores, convenience stores, stationery stores, bookstores, video rental stores, clothing stores, department stores, shoe stores, antique stores, etc., that sell goods or merchandise to the general public for personal or household consumption.

**RETIREMENT HOME**

Any age-restricted development, which may be in any housing form, including detached, and attached dwelling units, apartments, and residences, offering private or semiprivate rooms.

**RIDGELINE**

The highest elevation of a line of hills.

**RIGHT-OF-WAY**

A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electrical transmission lines, oil or gas pipelines, waterline, sanitary line, storm sewer line, or other similar uses, and which exists for the purpose of allowing passage over the property of another.

**SAWMILL**

An establishment engaged in the manufacture of lumber and lumber products from raw uncut timber.

**SEASONAL CAMP**

Parcel of land used for the temporary use of travel trailers, tents, campers, cabins, etc.

**SELF-STORAGE FACILITY**

A land use consisting of rental of storage space for personal property, or business property ~~of recreational vehicles~~ in a warehouse building or multi-sized in multiple individual units.

**SEQRA**

The State Environmental Quality Review Act (Environmental Conservation Law, Article 8).

**SHORT-TERM RENTAL**

The rental or lease of any dwelling space within a residential property to transient fee-paying guests for a period of 30 consecutive days or less, but not including spaces that are rented for an aggregate total of 30 days or less over a 365-day period or a single dwelling space (e.g., bedroom) within an owner-occupied residence. Such residential properties may or may not be owner- or operator-occupied. The short-term rental arrangement may or may not include provision of one or more meals. The short-term rental use only includes occupancy; other activities such as group gatherings (e.g., weddings) are a separate use.

**SIGN**

Any device, including but not limited to letters, words, numbers, figures, emblems, logos, pictures or any combination of these, located out of doors or outside or on the exterior of any building, or affixed to the inside or outside of glass windows and doors, used for visual communication intended to attract the attention of the public and visible to the public right-of-way and/or other properties. Notwithstanding anything else in the foregoing to the contrary, the term "sign" does not include signs erected and maintained pursuant to and in furtherance of a governmental function or that are required by any law,

ordinance, rule or regulation, on-site traffic control, circulation, parking, safety, and related signs, and signs demarking the boundaries of a property, such as "No Trespassing" or "Posted" signs.

**SIGN, ANIMATED**

A sign or any portion thereof having movement effected by mechanical or natural means, including, but not limited to, blinking, flashing and general intermittent light, as opposed to light of a constant intensity and value.

**SIGN, FEATHER FLAG, TEAR DROP, BLADE FLAG**

A sign typically constructed of a single plastic or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft and which is typically shaped as a feather, tear drop or blade.

**SIGN, FREESTANDING**

Any sign not attached to or part of any building but separate and permanently affixed by any other means, in or upon the ground.

**SIGN, ILLUMINATED**

Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of a sign.

**SIGN, PORTABLE**

A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign, including sidewalk signs.

**SIGN, REAL ESTATE**

A sign not exceeding six square feet in surface area and located not closer than six feet from any roadway that indicates that the premises on which it is located is for sale or for lease.

**SIGN, SANDWICH BOARD**

A portable sign constructed in such a manner as to form an "A" or tent-like shape, whether hinged or not at the top.

**SIGN, TEMPORARY**

Any sign, except a real estate sign, that is not permanently affixed to a building or the ground.

**SIGN, WALL**

A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall.

**SIGN, WINDOW OR DOOR**

Any sign visible from a sidewalk, street, parking area or driveway or other public space that is painted or affixed to the inside or outside of glass or other material.

**SMALL BUSINESS OPERATION (SBO)**

A retail business that manufactures what is sold on premises. This category encompasses minimum to moderately sized retailing/manufacturing enterprises in commercial zones. The combination of retailing and manufacturing is the essential characteristic of the SBO, although it is understood that portions of what is produced on site may be sold online, wholesale or at external markets. SBOs are intended to include craft shops where artisans engage primarily in the handcrafted manufacture of small items, such as pottery, jewelry, weaving, custom woodwork, baskets, ceramics, clothing, flower arrangements, metalwork, musical instruments, paintings, sculpture, toys, soaps, candies and baked goods. An SBO may sell accessories, supplies and incidental items not produced on the premises, provided that no more than 20% of retail floor space is used for such sales. Other uses consistent with the uses enumerated above shall be at the discretion of the Zoning Enforcement Officer with appeal to the Zoning Board of Appeals.

**SOCIAL, RECREATIONAL OR FRATERNAL CLUB**

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.

**SOLAR ENERGY EQUIPMENT**

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**SOLAR ENERGY SYSTEM**

An electrical generating system composed of a combination of both solar panels and solar energy equipment.

**SOLAR ENERGY SYSTEM, GROUND-MOUNTED ON-SITE CONSUMPTION**

A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of on-site consumption.

**SOLAR ENERGY SYSTEM, LARGE-SCALE**

A solar energy system that is ground mounted and produces energy primarily for the purpose of off-site sale or consumption. This system may also be referred to as a "solar farm."

**SOLAR ENERGY SYSTEM, ROOF-MOUNTED**

A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption.

**SOLAR PANEL**

A device that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**SPECIAL USE**

A land use which is deemed permissible within a given zoning district or districts but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this chapter.

**STABLE, COMMERCIAL**

A building in which horses are quartered, with remuneration.

**STABLE, PRIVATE**

A building in which horses are quartered, without remuneration.

**STREET**

A public or private way that affords the principal means of access to abutting structures.

**STREET, COLLECTOR**

A street that collects traffic from local streets and connects with minor and major arterials.

**STREET, MAJOR ARTERIAL**

A street with access control, channelized intersections, and restricted parking and that collects and distributes traffic to and from minor arterials.

**STREET, MINOR ARTERIAL**

A street with signals at important intersections and stop signs on side streets and that collects and distributes traffic to and from collector streets.

**STRUCTURE**

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences and signs.

**STRUCTURE, ACCESSORY**

Any structure designed to accommodate an accessory use but detached from the principal structure, such as a freestanding garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

**SUBDIVISION**

The division of any parcel of land into two or more lots, with or without streets or highways, including subdivision of a single property previously separated by a road that meets all zoning requirements. Such division shall include resubdivision of parcels of land for which an approved plat or deed has already been filed in the office of the County Clerk. The term "subdivision" may include any alteration of lot lines or dimensions of any lots (i.e., lot line adjustment). They shall not be in conflict with any

provision or portion of the Comprehensive Plan, the Official Map or Chapter **205**, Zoning, or these regulations.

**SUBDIVISION, MAJOR**

Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots, or any subdivision requiring any new street or extension of municipal services. Any minor subdivision resubdivided into five or more lots within a five-year period becomes a major subdivision.

**SUBDIVISION, MINOR**

Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or extension of municipal facilities, and may include the alteration of lot lines or dimensions of any lots (i.e., lot line adjustment) with no additional lots being created.

**SURFACE AREA COVERAGE**

The aggregate total of the dimensions of each solar panel face that comprise a solar energy system, irrespective of the angle at which the solar panels are mounted or the space between them.

**TAG SALE**

See "garage sale."

**TELECOMMUNICATIONS TOWER**

Any structure greater than 35 feet in height which is capable of receiving and/or transmitting signals (for the purpose of communication) for commercial purposes.

**TEMPORARY BUSINESS TRAILER**

A mobile structure used for facilitating a project or event. It may contain office space, storage space or facilities specific to and for the duration of the project or event.

**TEMPORARY HOUSING**

A mobile or manufactured home, including a recreational vehicle, that is sited on an approved lot and used as a single-family residence or a period of time not to exceed 12 months.

**THEATER**

A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

**TOWN USE**

Any structure, building or land use activity that directly relates to the administration or performance of Town of New Lebanon functions, pursuant to the Town Code, Town budget, or resolutions passed by the Town Board.

**TRUCK TERMINAL**

An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

**USE**

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**USED MOTOR VEHICLE**

Any previously owned motor vehicle that is for sale, meets state inspection requirements and is ready to be driven by a customer.

**VARIANCE**

A modification of the use and/or area and bulk regulations of this chapter in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of a reasonable use of the land or structure. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconveniences or a desire to make more money.

**VARIANCE, AREA**

A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

**VARIANCE, USE**

A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

**VETERINARY HOSPITAL**

A facility for the care and treatment of injuries and diseases of animals and operated by a licensed veterinarian.

**WAREHOUSE**

A building used primarily for the storage of goods and materials.

**WHOLESALE STORE**

A facility designed for the storage and sale of goods and merchandise, in quantity and primarily for sale to retail merchants.

**YARD, FRONT**

An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

**YARD, REAR**

An open unoccupied space on the same lot with the building between the rear line of the building and rear line of the lot and extending the full width of the lot.

**YARD SALE**

See "garage sale."

**YARD, SIDE**

An open unoccupied space on the same lot with the building situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

**ZONING ENFORCEMENT OFFICER**

Person(s) authorized to enforce this chapter.

# ZONING

## 205 Attachment 1

### Town of New Lebanon

#### Schedule 1, Area and Bulk Regulations

District <sup>1,2</sup>	Minimum Lot Size	Maximum Building Coverage (Footprint) of Principal Building	Minimum Front Setback (feet) <sup>3,6</sup>	Minimum Side Yard Each Side (feet)	Minimum Rear Yard (feet)	Maximum Stories	Maximum Height (feet)	Minimum Road Frontage (feet)
RA-5	5 acre	10,000	75	75	75	2 1/2	35	60
RA-2	2 acre	4,000	75	50	50	2 1/2	35	60
RA-1	1 acre	4,000	75	35	50	2 1/2	35	60
C <sup>7</sup>	30,000 <sup>4</sup>	75% of lot	75	20 <sup>5</sup>	25	3	40	100
CC	30,000 <sup>4</sup>	75% of lot	75	20 <sup>5</sup>	25	3	40	100
C-Rec	30,000 <sup>4</sup>	50% of lot	20 <sup>5</sup>	25	25	3	40	200
C-I <sup>7</sup>	30,000	25% of lot	75	50	50	3	40	200
C-R <sup>7</sup> (see note below)	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>	<u>see note 2</u>

#### NOTES:

- <sup>1</sup> See regulations specific to overlay districts for additional area and bulk requirements.
- <sup>2</sup> In the Commercial-Residential District, residential uses shall be subject to the area and bulk regulations applicable to the RA-1 District, and commercial uses shall be subject to those applicable to the Commercial District.
- <sup>3</sup> Measured from the center of the traveled portion of the road.
- <sup>4</sup> Except for wholesale store, hotel and/or motel, which requires two acres minimum.
- <sup>5</sup> Fifty when adjacent to residential zone, and 40 when adjacent to existing building.
- <sup>6</sup> Except as pertains to motor vehicle sales businesses, which may display vehicles being outside a structure with a setback of no less than 25 feet from the edge of pavement.
- <sup>7</sup> Self-storage facilities shall comply with both this Schedule 1 and Section 205-13 (E) (20) (d).

# ZONING

## 205 Attachment 2

### Town of New Lebanon

### Zoning Law Use Table

**KEY:**

- SP = Special use permit (may be subject to Site Plan Review pursuant to § 205-14)
  - P = Permitted use (requires zoning permit; may be subject to Site Plan Review pursuant to § 205-14)
  - TSP = Town Board Special Permit (pursuant to Chapter 189, Telecommunications Facilities)
- See § 205-14 for applicability of Site Plan Review by the Planning Board.  
 Any use not listed shall be prohibited.

	<b>Residential-Agricultural/Conservation</b>	<b>Residential-Agricultural</b>	<b>Residential-Agricultural</b>	<b>General Commercial</b>	<b>Central Commercial</b>	<b>Commercial-Recreational</b>	<b>Commercial - Industrial</b>	<b>Commercial-Residential</b>
	<b>RA-5</b>	<b>RA-2</b>	<b>RA-1</b>	<b>C</b>	<b>CC</b>	<b>C-Rec</b>	<b>C-I</b>	<b>C-R</b>
<b>Residential Uses</b>								
Accessory dwelling unit	P	P	P	SP	SP			P
Boardinghouse or group home	SP	SP	SP	SP	SP			SP
Compact home	P	P	P	SP	SP			P
Customary	P	P	P	P	P	P		P
Manufactured home	P	P	P	SP	SP			SP
Mobile home park			SP					SP
Multifamily dwelling	SP	SP	SP	SP	SP			SP
One-/two-family dwelling	P	P	P	SP	SP			P
Temporary housing	SP	SP	SP					SP



## ZONING

	<b>Residential-Agricultural/Conservation</b>	<b>Residential-Agricultural 2</b>	<b>Residential-Agricultural 1</b>	<b>General Commercial</b>	<b>Central Commercial</b>	<b>Commercial-Recreational</b>	<b>Commercial-Industrial</b>	<b>Commercial-Residential</b>
	<b>RA-5</b>	<b>RA-2</b>	<b>RA-1</b>	<b>C</b>	<b>CC</b>	<b>C-Rec</b>	<b>C-I</b>	<b>C-R</b>
Nursing home		SP	SP	SP	SP			SP
Place of worship	P	SP	SP	SP	SP			SP
Private school		SP	SP					SP
Professional office		SP	SP	P	P	P	P	SP
Public park, forest or recreational area	P	P	P	P	P	P		SP
Retirement home	SP	SP	SP	SP	SP		SP	
Short-term rental	SP	SP	SP	P	P			SP
Small business operation (SBO)				SP	SP	SP	SP	SP
Social, recreational or fraternal club				P	P	P		
Roof-mounted solar energy systems for on-site consumption	P	P	P	P	P	P	P	P
Ground-mounted solar energy systems for on-site consumption, under 1,000 square feet	P	P	P	P	P	P	P	P
Ground-mounted solar energy systems for on-site consumption, over 1,000 square feet	SP	SP	SP	SP	SP	SP	SP	SP
Large-scale solar energy systems and community solar energy systems	See § 205-18 (D) (1) (a)							
Stable, commercial	SP	SP	SP	SP	SP	SP		
Stable, private	P	P	P					

NEW LEBANON CODE

	Residential-Agricultural/Conservation	Residential-Agricultural 2	Residential-Agricultural 1	General Commercial	Central Commercial	Commercial-Recreational	Commercial-Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	CC	C-Rec	C-I	C-R
Telecommunications facility	TSP	TSP	TSP	TSP	TSP	TSP	TSP	TSP
Temporary-business trailer				SP	SP	SP	SP	SP
Veterinary hospital	SP	SP	SP	SP	SP			
<b>Business Uses</b>								
Adult use							SP	
Auction sale, excluding livestock auction				SP	SP			
Automobile racing facility						SP		
Bank				P	P	P	SP	P
Bar				SP	SP	SP		SP
Bowling alley				P	P	P		P
Cannabis Consumption Facility				SP	SP	SP		SP
Cannabis Retail Dispensary				SP	SP	SP	SP	SP
Car wash				SP	SP	SP		SP
Commercial Event Venue				SP	SP	SP	SP	SP
Commercial excavation	SP							
Commercial trades operation				SP	SP		SP	SP
Convenience store				P	P	SP		P
Dance hall				P	P	P		
Farm market		SP	SP	P	P	P		P
Farm stand	P	P	P	P	P	P		P
Flea market or Farmers' market				SP	SP	SP		
Food Truck				P	P	P	P	P
Greenhouse	P	P	P	P	P		P	P
Hotel				SP	SP	SP		SP
Laundromat				SP	SP			SP



