

ARTICLE 3 REQUIREMENTS FOR SPECIFIC USES

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3.1 REQUIREMENTS FOR SPECIFIC USES

Note: This Article incorporates text from existing code sections 6.3 and 6.4.

3.1.1 Intent

This ~~section~~ Article establishes supplemental regulations for specific uses and accessory uses in addition to those otherwise established in this Chapter.

3.1.2 ~~Vehicle Fueling Stations~~ Automotive Fuel Sales

In any district where ~~vehicle fueling stations~~ Automotive Fuel Sales are permitted, the following shall apply:

- A. No fuel pump shall be located closer than 20 feet from any property line.
- B. No property line associated with a vehicle refueling station shall be located within:
 1. 500 feet of a school, park, playground, fire station, public library, theater, religious institution, or other place of public assembly as defined by the NYS Uniform Fire Prevention and Building Code
 2. 250 feet of ingress or egress ramps to limited access highways
 3. 250 feet of an abutting residential district.
- C. No new or used vehicles or trailers shall be sold or rented at a ~~vehicle refueling~~ Automotive Fuel Sales station.

Note: Would like to discuss adding a provision, similar to below, which would address abandonment of gas stations which could become an issue with growth of electric car market. For discussion.

- D. Notice of Discontinuance and Removal. An Automotive Fuel Sales Station which discontinues active use for a period of more than two years shall be considered abandoned. The Zoning Officer shall

notify the property owner or lessee in writing of this status. Fuel pumping facilities, canopy structures and underground fuel storage tanks shall be removed from the site within six (6) months of the date of the notice.

3.1.3 Mobile Homes

- A. Residential Mobile Homes.** Residential mobile homes are permitted only within approved mobile home parks in the Urban Residential-6 District, or for farm workers within State-established Agricultural Districts. Single lot residential mobile homes may only be permitted under extraordinary temporary conditions (e.g., emergency shelters, and the like) by the issuance of a temporary special use permit.
- B. Non-residential Mobile Homes.**
1. A mobile home may be used for temporary business/office purposes during construction of a permanent facility as approved by the Planning Board.
 2. A mobile home may be used as a temporary field office or tool house in conjunction with an approved construction or other similar work project.
 3. Temporary mobile homes shall be removed after project completion.

3.1.4 Telecommunications Facilities and Towers

This section is intended to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to encourage the shared use of existing buildings and telecommunication towers; to provide the process for the establishment of new telecommunication towers; and to minimize adverse visual effects from telecommunication facilities and towers.

A. Required Approvals

1. **Placement on Existing Telecommunication Facility.** New telecommunication equipment that is proposed to be added to (co-located) a previously approved telecommunication facility shall be a permitted use but shall require architectural review (or historic review if located within an historic district), and site plan review if applicable per Article 7-2 5.1 Site Plan Review.
2. **Placement on an Existing Structure.** New

telecommunication equipment that is proposed to be added to an existing approved structure, other than an approved telecommunications facility, shall require a special use permit, architectural review (or historic review if located within an historic district), and site plan review if applicable per Article 7-2 5.1 Site Plan Review.

3. New Telecommunication Tower/Facility.

The construction of a new telecommunication tower/facility shall require a use variance, architectural review (or historic review if located within an historic district), and site plan review.

B. Additional Requirements for Telecommunications Tower/Facility Approvals

1. **Architectural and Historic Review.** In addition to the respective requirements associated with ~~Historic and Architectural Review in Articles 7-4 and 7-5~~ Architectural Review and Historic Review in Articles 5.4 and 5.5, the following may be considered in association with telecommunication tower/facility review.
 - a. Pictorial representations of “before and after” views from key viewpoints selected by the City.
 - b. Alternative designs, materials, finishes and color schemes to minimize visual discord with neighboring areas.
 - c. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose.
2. **Special Use Permit.** In addition to the requirements associated with Special Use Permit in Article 7-1 5.3, the following may be considered in association with telecommunication tower/facility review.
 - a. Demonstration that ~~that~~ the applicant has explored co-location opportunities at existing approved telecommunication facilities including demonstration that such co-location is not feasible.
 - b. Demonstration that any new facility or tower may accommodate future shared use by other telecommunications providers including a letter of intent from the current property owner insuring good faith negotiation for future shared use of this facility/tower for telecommunication purposes.
 - c. Certification that the new facility will not interfere with radio or television service to

- the adjacent properties or with public safety telecommunications.
- d. Certification of a valid Federal Communications Commission (FCC) license.
- 3. Use Variance.** In addition to the requirements associated with a Use Variance in Article 8-θ 6.0, the following may be considered in association with telecommunication tower/facility review.
- a. Demonstration that ~~that~~ the applicant has explored co-location opportunities at existing approved telecommunication facilities and other structures including demonstration that such co-location is not feasible. Demonstration shall include an inventory of all existing telecommunication facilities and other structures within a reasonable distance as determined by the ZBA in consultation with the applicant.
- b. Demonstration that a new tower/facility is necessary to meet current or expected demand for services including demonstration that existing facilities, structures, or combination thereof, could not provide the intended service.
- c. Justification for proposed height and design of the new telecommunications tower including an analysis of alternative heights and design.
- d. Visual impact of the proposed tower/facility from abutting properties and streets. In addition to a completed Visual Environmental Assessment Form, a "Zone of Visibility Map" may be required to determine locations where the facility may be seen.
- e. Demonstration that any new tower/facility may accommodate future shared use by other telecommunications providers including a letter of intent from the current property owner insuring good faith negotiation for future shared use of this facility/tower for telecommunication purposes.
- f. Certification that the new facility will not interfere with radio or television service to the adjacent properties or with public safety telecommunications.
- g. Certification of a valid Federal Communications Commission (FCC) license.
- 4. Use Variance - Additional Notifications.** In addition to the notification requirements associated with Article 8-θ 6.0, the applicant shall send written notification via the U.S. Postal Service of a use variance application to the following entities. Notice shall describe the proposed facility including the height and exact location of the tower and its capacity for future shared use. The applicant shall submit documentation of this mailing to the ZBA at the time of application.
- a. Property owners within a geographic radius of 500 feet from the subject property boundary.
- b. Respective Town Clerk for the Towns of Greenfield, Malta, Milton, Saratoga and Wilton.
- c. Saratoga County Planning Board.
- d. Director of Saratoga County Emergency Services.
- e. Administrator of any State and Federal Parklands from which the tower may be seen.
- 5. Site Plan Review.** In addition to the requirements associated with a Site Plan Review in Article 7-2 5.2, the following may be considered in association with telecommunication approvals.
- a. All proposed telecommunication structures shall be located on a single parcel. If the land is leased, the leased area shall include the entire telecommunications facility including any required yard setback areas.
- b. Each freestanding telecommunication tower shall be located at a minimum setback from any property line equal to the height of the tower. Accessory structures shall comply with setback requirements of the underlying zoning district.
- c. Existing on-site vegetation shall be preserved to the maximum extent possible. An inventory may be required to document existing vegetation. No trees, measuring more than 4 inches in diameter at a height of 4 feet off the ground, shall be cut prior to approval. Additional plantings may be required to screen the facility from neighboring areas
- d. The tower and accessory structures shall be adequately enclosed by a fence or other confined means to ensure the security of the facility.
- C. Notice of Discontinuance and Removal.** The property owner or lessee shall notify the Zoning Officer in writing within 30 days of the discontinuance of the approved telecommunications use. All telecommunication facilities and structures shall be removed from any site within four (4) months of the date of discontinued use.

3.1.5 Adult Bookstores and Adult Entertainment Establishments

Adult Book Stores and Adult Entertainment Establishments are recognized as having serious negative secondary effects such as increased crime rates, decreased property values, curtailed retail trade, deterioration of the quality of life, and spread of sexually transmitted diseases, as based on documented evidence and concluded within: The “Adult Entertainment Study”, NYC Department of Planning, 1994, which contains summaries of impact studies from the cities of Islip, New York; Los Angeles, CA; Indianapolis, IN; Whittier, CA; Austin, TX; Phoenix, Arizona; Manatee County, Florida; New Hanover County, North Carolina and the State of Minnesota; and “Adult Use Study, Town of Clifton Park”, Clifton Park and RMPC, 2000.

The adverse impacts are compounded when several establishments are concentrated under certain circumstances and in close proximity of one another, thereby having a deleterious effect upon the adjacent area. Special regulations of such uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood and, thereby, have a direct deleterious effect on the health, safety and general welfare of the City and its inhabitants. These supplemental regulations are for the purpose of preventing a concentration of this use in any one area.

- A. No adult book store and/or adult entertainment establishment shall be permitted within 2,500 feet from the nearest property line of any school, library, park, playground, or religious institution.
- B. No adult book store and/or adult entertainment establishment shall be permitted within 2,500 feet from the nearest property line of any other adult book store or adult entertainment establishment.
- C. Penalties. In addition to the penalties specified by Article 9.2.2-8.3.5 of this Chapter, violation of this Section is punishable by a fine not exceeding \$1,000, or by imprisonment not exceeding 6 months, or by both fine and imprisonment. Each day, or any portion thereof, in which any violation of this Section is committed or continued shall constitute a separate offense. In addition to these penalties, the City may institute any appropriate action or proceedings to enjoin the establishment or continuance of such use in violation of the provisions hereof, or take such other legal or administrative action deemed necessary or desirable to correct or abate such violation.

3.2 REQUIREMENTS FOR ACCESSORY USES

~~This section establishes supplemental regulations for specific accessory uses in addition to those otherwise established in this Chapter. ## Note: The above was combined with the intent for the Article.~~

3.2.1 Outdoor Eating and Drinking Facilities Establishment, Outdoor

Outdoor Eating and drinking ~~facilities establishments~~ shall be a permitted accessory use in association with approved eating and drinking establishments in districts where that use is permitted under Article 2 of this Chapter.

- A. The maximum number of seats permitted for any outdoor eating and drinking facility shall not exceed 50% of the approved number of indoor seats unless otherwise indicated by the issuance of a special use permit.
- B. Site plan review shall be required for any outdoor eating and drinking facility with more than 80 seats.
- C. Outdoor eating and drinking facilities can only be operated from March 1 through October 31 and shall not be occupied by patrons between the hours of 2:30 a.m. and 8:00 a.m. No music may be played on the premises outdoors between 12 a.m. and 8:00 a.m.

3.2.2 Home Occupations

Home occupations are permitted as accessory uses, as identified in Article 2 and as follows, provided they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

- A. **Application.** The property owner shall seek a Building Permit and/or Certificate of Occupancy, as required by the Building Department, to establish a home occupation. Two different levels of Home Occupations may be permitted, Limited and Regular, as described below.
- B. **Limited Home Occupations**
 - 1. Permitted activities shall be limited to business and professional offices, instructional facilities for not more than 3 students at any given time, and a workshop

or studio for artists, composers, craft persons, web designers, photographers, tailors, writers and similar professions;

- 2. All business must be conducted entirely within the primary structure and shall occupy no more than 20% of the total floor area of the residential unit;
 - 3. Employees or staff shall be limited to legal residents of the dwelling unit and no more than one non-resident at a given time;
 - 4. No more than 2 parking spaces associated with the customer / client visits are permitted, and must be accommodated on the property.
 - 5. The business shall not generate more than six customer/client visits to the property per day, and such visits shall be limited to occur between 8:00 a.m. and 9:00 p.m.
 - 6. One non-illuminated wall sign, not exceeding 1.5 sq. ft. in area, is permitted in association with the business.
- C. **Regular Home Occupations**
- 1. Permitted activities shall be limited to those permitted for Limited Home Occupations; as well as facilities for patient consultations; repair of small devices such as clocks, computers, radios and similar tabletop equipment.
 - 2. All business must be conducted entirely within the primary structure, limited to no more than 25% of the total floor area of the residential unit, or within a permitted accessory structure;
 - 3. Employees or staff shall be limited to legal residents of the dwelling unit and no more than one non-resident at a given time;
 - 4. No more than 4 parking spaces associated with the customer / client visits are permitted, and must be accommodated on the property.
 - 5. The business shall not generate more than ten customer/client visits to the property per day, and such visits shall be limited to occur between 8:00 a.m. and 9:00 p.m.
 - 6. One non-illuminated wall sign, not exceeding 2 sq. ft. in area, or one non-illuminated yard sign not exceeding 4 sq. ft. per side, is permitted in association with the business.

D. **Prohibited Activities.** The following activities are prohibited in association with any Home Occupation.

1. The outdoor storage or display of products, equipment or materials related to the business.
2. Any activities which result in noise, vibration, odor, smoke, glare or electrical interference detectable from outside the property at levels which are above those commonly experienced in the residential neighborhood.
3. Service or repair of large equipment such as household appliances, lawn mowers or motor vehicles.
4. Truck deliveries or pickup of goods, not including common mail couriers such as USPS, UPS, FedEx and similar services.

E. **Requirements:**

1. ~~The activity shall be conducted entirely within the structure and shall occupy no more than 15% of the total floor area of the residential dwelling units.~~
2. ~~Only occupants of the residence and no more than one non-occupant may conduct the activity at any one time.~~
3. ~~The activity shall generate no more than ten visits to the property per day. Visits may not occur before 8:00 a.m. or after 9:00 p.m.~~
4. ~~Any need for additional parking generated by the activity shall be met onsite.~~
5. ~~One non-illuminated, wall sign, not exceeding 1½ sq. ft. in area, is permitted in association with the activity.~~
6. ~~No outdoor storage or display of products or equipment in association with the activity is permitted.~~

F. **Permitted Activities.** Permitted home occupations include but are not limited to the following non-residential activities:

1. ~~Business and professional office facilities.~~
2. ~~Facilities for patient consultations.~~
3. ~~Instructional facilities for not more than 3 students at any given time.~~
4. ~~Workshop or studio facilities for artists, composers, crafts persons, photographers, tailors, writers, and the like.~~

3.2.3 **Temporary Accessory Dwellings, Temporary**

In order to provide flexibility for the temporary housing of family, employees and guests, a “temporary accessory dwelling” shall be permitted as an accessory residential use within an existing legal single-family residence, where identified in Article 2, as follows:

- A. **Application.** The property owner shall seek a building permit to create a temporary accessory dwelling and indicate the period of time for which the temporary accessory dwelling is requested.
- B. **Size.** A temporary accessory dwelling shall only be located in a residence with a minimum of 1,000 square feet. A temporary accessory dwelling shall not occupy more than 1/3 of the square footage of the primary dwelling.
- C. **Access.** There shall be no exclusive access to the temporary accessory dwelling. Access shall only occur through a building entrance that serves both the principal dwelling and the temporary accessory dwelling and through a living area in the primary dwelling.
- D. **Utilities.** A temporary accessory dwelling may have independent kitchen and bath facilities but shall not have separate utility meters or services from the street.
- E. **Compensation.** Application for a temporary accessory dwelling shall include a notarized statement that no rent or other compensation shall be collected for occupancy of the temporary accessory dwelling.

3.2.4 **Seasonal Rentals**

Note: This section under construction. Language being prepared and provided by city.

3.2.5 **Carriage House & Barn Conversions**

Note: The following is for discussion purposes to address the issue of carriage house conversions and the potential for accommodating accessory dwelling units.

In the interest of helping to preserve and protect the historic accessory buildings such as carriage houses and barns within the City of Saratoga Springs, the city finds that providing a

method for adaptive re-use of these structures is essential to prevent them from falling into disrepair from a lack of use, and may also help to provide additional housing opportunities within the city. The intent of this section is to provide for a lawful method for a limited number of historic, pre-existing structures to be adapted, with a sunset window on the provision which would expire unless re-enabled by the City Council.

- A. No more than four (4) carriage house or barn conversions may be approved by the city under this provision per calendar year while it is in effect. This provision shall expire on December 31st, 2019, unless by vote of the City Council it may be extended for a period of not more than one year at a time.
- B. Carriage house or barn conversions under this provision are limited to existing accessory structures constructed before [Date].
- C. Permitted uses approved as part of the conversion shall include [Accessory Dwelling Units and] those permitted Home Occupations which are permitted in the district.
- D. Conversions for residential use shall be limited to only one (1) accessory dwelling unit, with a minimum habitable space of 800 s.f. All parking which may be required as part of an accessory dwelling unit conversion shall be provided for on the property.
- E. No significant exterior changes to the structure shall be permitted which alter its character or style, including footprint size, height or types and styles of exterior material. Limited exterior changes may be permitted such as adding windows, vents or skylights to provide habitable space.
- F. Utility services provided to the structure shall be limited to electrical, telephone, data, cable and heating/cooling service. No water or sanitary sewer hookup shall be permitted [except in conjunction with an approved accessory dwelling unit].
- G. Conversions under this provision may only be approved as a Special Use Permit, with review and approval by the Design Review Commission, and shall follow all of the required public hearing, notification and referral requirements for such.

- H. Applications for conversions shall be referred to the Fire Department and Police Department for review and comment with regard to public safety, access for emergency vehicles.
- I. Any approved conversions which exist after the expiration of this provision may continue to operate as a pre-existing non-conforming use.

3.2.6 Walls and Fences

- A. **Height.** Walls and fences shall be measured from the ground level at the base of the side directed toward the abutting property. Walls and fences, including combinations of both, shall be permitted up to a maximum height of 6 feet with the following exceptions:
 1. A maximum height of 8 feet is permitted within any commercial or industrial district, or along any boundary between a residential and non-residential district.
 2. Light fixtures, post tops, finials and other ornamentation above the mass of the wall or fence shall not exceed 1/3 of the permitted height of the wall or fence. Such ornamentation may be placed at intervals no less than 8 feet on average.
- B. **Orientation.** Fences and walls shall have the finished face of the wall or fence directed toward the abutting property.
- C. **Maintenance.** The property owner on whose land the wall or fence is located shall be responsible for the maintenance of both sides of the wall or fence. If the property owner is denied access to the abutting property, the property owner shall be relieved of the maintenance obligation.

3.2.7 Swimming Pools

In addition to the requirements of City Code Chapter 209, swimming pools shall conform to the following requirements:

- A. **Residential Swimming Pools**
 1. Residential swimming pools may be installed only as accessory to a residence for the exclusive use of the owners or occupants of such residence and their guests.
 2. The pool shall be installed in the rear or side yard of the premises and shall not be installed in the front

yard. No pool wall or related structure shall be located within 8 feet of an adjoining lot line. There shall be no required separation distance from the swimming pool to the principal structure.

B. Commercial or Club Swimming Pools

1. Club swimming pools shall be permitted as an accessory structure to a permitted membership club.
2. Commercial or club pools shall comply with the area, yard and other dimensional requirements of the presiding district.

C. Enclosure. All pools shall be completely surrounded by an enclosure preventing unimpeded access.

1. A residence or accessory structure may be used as part of such enclosure.
2. Fencing shall be between 4 and 6 feet in height with support posts at no less than 8 feet intervals. Wire mesh fencing shall not have openings, holes or gaps larger than 2 inches in diameter.
3. An unobstructed maintenance area, at least 3 feet in width, shall be maintained between the side walls of the pool and surrounding fence or structure.
4. Above-ground pools with solid walls preventing entrance to the pool, except by an entrance ladder, shall not require additional fencing.

D. Noise and Lighting Restrictions

1. No loudspeaker or other sound device, operated in connection with a pool, shall be heard beyond the property lines.
2. No lighting, operated in connection with a pool, shall illuminate beyond the property lines.

3.2.8 Antennas and Satellite Receivers

Antennas and satellite receivers that meet the following conditions shall be permitted accessory structures in any zoning district.

- A. Building-mounted structures.** Building-mounted antennas or satellite receivers shall not exceed 6 feet in height, width or depth, shall not extend more than 6 feet above or beyond the building, and shall not encroach into required yard dimensions.

- B. Freestanding structures.** One freestanding antenna or satellite receiving structure is permitted per lot in a residential district; one or more are permitted in non-residential districts. Freestanding antenna or satellite receiving structures shall not exceed 20 feet in height, width or depth, and shall be located in the rear yard no less than 25 feet from rear and side property lines.

3.2.9 Solar Access Panels

Note: This section under construction, to be coordinated with input from city Sustainability Coordinator.

~~Except as otherwise provided by this Chapter, no property owner may erect a structure or allow a tree or other flora to cast a shadow upon a solar collector greater than the shadow cast by a hypothetical wall six feet high located along the property line between 8:00 a.m. and 4:00 p.m. Eastern Standard Time from September 21 to March 21.~~

Solar panels may be installed as an accessory structure or accessory use depending on the type of installation, as allowed by zoning district use schedules in Article 2.

- A.** In addition to the specific requirements listed below, solar panel installations shall follow the design standards provided in Article 4.

Note: Each of the solar install types listed below will be defined in the Definitions, however are provided here for reference.

- B. Install Type 1 - Roof Mounted.** Must be 12 kW or less. Treated as an Accessory Use. Type 1 installs are reviewed and permitted through the Unified Solar Access Permit. Panels facing the front yard shall be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system. Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way.

- C. Install Type 2 - Building Mounted.** Treated as an Accessory Use for the purposes of review, approval and permitting.

- D. Install Type 3 - Ground Mounted.** Treated as an Accessory Structure for the purposes of review, approval and permitting. Permitted in rear or side yards only. Requires a minimum lot size of xxxx, and counts toward the maximum lot coverage percentage, which shall be

calculated by “panel surface area”

E. Install Type 4 - Commercial Scale Ground Mount.

Treated as a Primary Structure for the purposes of review, approval and permitting. Type 4 installs require Site Plan Review and Special Use Permit.

1. Perimeter fencing required, including perimeter warning signs as directed by the Planning Board.
2. Requires copies of all easements.
3. Requires a complete Property Operation and Maintenance Plan.
4. In addition, the Planning Board may require a Decommissioning Plan which shall detail the proper removal of all infrastructure and the remediation of soil and vegetation in order to return the parcel to its original state if it no longer becomes operational. This plan shall include an expected timeline and cost estimate of removal. It may also include, at the discretion of the city, a provision for the city to remove the system if not properly decommissioned by the owner, and a performance bond to cover the costs of such removal.

3.2.10 Vehicle Charging Terminals

- A. Electric Vehicle Charging Terminals for commercial or residential installation are a permitted Accessory Use in all districts, provided that they meet all State and local electrical codes and are installed by a licensed electrician.
- B. Level 1 Vehicle Charging Terminals for private residential (non-public) use shall not require a permit. Level 1 Charging Stations are not permitted for commercial installations or those designed for public use.
- C. Level 2 Vehicle Charging Terminals, for private residential use or commercial public use shall require a permit as specific in Article 5.

