

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 2.2, 6.3 and 6.4.

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

3.1.1 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.

3.1.2 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 Automotive Repair

- A. Automotive repair uses are permitted in the Transect-5 and Transect-6 District with Site Plan Review and Special Use Permit, provided they meet they following conditions:
 1. Service bay garage doors shall be located on the side or rear of the building so that they do not directly face the primary street; and,
 2. Overflow parking and vehicle storage for customer vehicles which are not currently being serviced shall be located in the side or rear of the lot and screened from view with fencing and landscaping as directed by the Planning Board.

3.1.4 Automotive Sales

- A. Automotive sales uses are permitted in the Transect-5 and Transect-6 District with Site Plan Review and Special Use Permit provided they meet they following conditions:
 1. In the Transect-6 District, no vehicles shall be placed on display outdoors in view from the public way. All vehicle sales inventory stock shall be stored indoors in an enclosed showroom, or outdoors in the rear of the property and shielded from view from the public way as directed by the Planning Board.
 2. In the Transect-5 District, no more than three vehicles shall be placed on display outdoors in view from the public way at any time. Exterior illumination of any vehicles on display outdoors must be turned off between the hours of 11 p.m. and 8 a.m. Remaining vehicle inventory stock shall be stored indoors in an enclosed showroom, or outdoors as described in item 1 above.
 3. Off-site storage of vehicle sales inventory is permitted

3.1.5 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. **Note: May need to revise language describing Mobile Homes to coordinate with state definitions**

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.

3.1.6 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 ~~8-0 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 ~~8-9~~ **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.

3.2 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 **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.

3.2.2 **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.

3.2.3 **Automotive Charging Terminals**

- A. Electric Vehicle Charging Terminals (also known as Electric Vehicle Supply Equipment - EVSE) 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 and Level 3 Vehicle Charging Terminals, for private residential use or commercial public use, shall require an Electric Vehicle Charging Permit as specified in Article 5.**

3.2.4 **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. Researching methods to utilize this to accommodate affordable housing.

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 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. 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 which are 50 years or older, located in a historic district listed on the State and National Registers of Historic Places.
- 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.

3.2.5 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. Unless otherwise determined by Planning Board Review, 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.

3.2.6 Geothermal Energy Systems

- A. Geothermal energy systems shall be constructed pursuant to a building permit as a permitted accessory use so long as the geothermal energy system meets the criteria set forth in this article, subject to obtaining all other necessary approvals.
- B. Permitted geothermal systems eligible to receive a building permit are those that (1) are of a system listed herein, (2) comply with the applicable general requirements as described herein and (3) satisfy the following basic criteria:
 1. An open loop system using standard water well(s) to both extract and return groundwater from/to the same aquifer and with well screens set within 50 vertical feet of one another.
 2. An open loop system that is not connected to a potable water system.
 3. An open loop system where the depth to groundwater is at least 20 feet below the surface.
 4. A vertical closed loop system using standard HDPE "U-bends" installed into drilled boreholes and grouted fully from bottom to top per industry standards.
 5. A horizontal closed loop system using standard HDPE pipe installed into horizontal trenches and backfilled per industry standards.
 6. A DX-to-earth contact system including either horizontal, diagonal or vertical loops and DX-to-water

system including vertical loops.

7. Is not proposed to be located within the following areas of potential sensitivity:

- a. One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA flood maps.
- b. Freshwater wetland or within 100 feet landward of the aforementioned.
- c. Regulated surface water body.
- d. Historic and/or culturally significant resources, in an historic district, or historic district transition zone where such system would be visible from a public way.
- e. Within identified water supply or public water supply wellhead protection areas.

C. General Requirements. All permit applications shall be submitted to the Building Department on forms it provides and shall comply with all the requirements therein, including but not limited to the following:

1. Certification by the design engineer and/or installer that the geothermal system complies with all applicable regulations and all applicable state and/or local building codes.
2. Subsequent to installation and on or before final inspection, certification by the design engineer and/or installer that the geothermal system was installed as designed and that the design and installation complies with the relevant industry standards and guidelines outlined herein.
3. An engineering analysis of the geothermal energy systems showing compliance with the New York State Uniform Fire Prevention and Building Code and certified by a licensed professional engineer. Soil studies shall be required for geothermal energy systems having installations to be located on nonstandard soil conditions such as rock/ledge, muck, urban fill or dredge spoil. No soil studies shall be required for all other geothermal energy systems, provided the manufacturer thereof submits a certification stating that the geothermal energy system and its foundation are suitable for installation in the soil at the proposed location.

D. Design Standards and Guidelines

1. The design and installation standards of geothermal

systems, including related wells and boreholes for the GHX, shall conform to applicable industry standards, including, but not limited to, those listed below by type of system, and shall comply with the City of Saratoga Springs Code:

- a. All systems: the American National Standards Institute (ANSI), the International Ground Source Heat Pump Association (IGSHPA), the American Society for Testing and Materials (ASTM), the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), the Air Conditioning and Refrigeration Institute (ARI), ACCA, Refrigeration Section of the International Building Code, and other similar certifying organizations. The manufacturer specifications shall be submitted as part of the application. The individual piping loops and circuits, and fully constructed piping network for all geo thermal systems shall be pressure tested for integrity of original material and joints prior to backfill in accordance with the manufacturer's instructions and the governing standards or guidelines. Materials used to backfill horizontal GHXs and the buried, horizontal piping for vertical GHXs shall be suitable granular soil and shall be free from frozen lumps, ashes, refuse, vegetable or organic matter, rocks, or boulders over 150 mm (six inches) in any dimension, or other materials that may damage the piping. The backfilled excavations shall be compacted in accordance with industry standard practice and governing guidelines and regulations.
- b. Open loop systems: the National Ground Water Association (NGWA) and the American Water Works Association (AWWA).
- c. Closed loop systems: the International Ground Source Heat Pump Association (IGSHPA) and the NGWA.
- d. Direct exchange (DX) systems: the Canadian Standards Association (CSA), the National Association of Corrosion Engineers (NACE), the American Society of Mechanical Engineers (ASME) and in accordance with manufacturer's guidelines, methods and standards.

2. For closed-loop systems, the following specifically apply:

- a. Closed loop borefield installers must be trained and

accredited by IGSHPA and certified by the piping manufacturer in polyethylene pipe heat-fusion or electro-fuse welding techniques, whichever is used.

- b. Closed loop borefields that will supply greater than 50 tons of heating/cooling capacity must be designed by an IGSHPA certified geothermal designer in good standing with the IGSHPA.
- c. If antifreeze solutions are used as a circulating fluid in the buried ground heat exchanger, only antifreeze recommended by IGSHPA such as methanol, ethanol and food-grade propylene glycol shall be permitted.
- d. The borehole annulus (space between the borehole wall and the piping) shall be filled and sealed through its entire depth with a high-solids bentonite clay grout (at least twenty-percent solids by weight), from the bottom of the borehole to the top using the tremie method of grouting.
- e. Where grouting material extends through zones of saline water, a salt-water-resistant grout material shall be used.
- f. All horizontal closed-loop systems shall be no more than 20 feet deep.

3. For open horizontal loop systems, the following specifically apply:

- a. Open loop system contractors must be registered with the NYSDEC for drilling and installing wells and installing and start-up of submersible pumps and a copy of a NYSDEC well completion report must be submitted after the installation of the wells.
- b. Prior to drilling, well drilling contractors must notify the Code Enforcement Officer of the location of wells installed as part of an open loop geothermal system.
- c. Open loop systems with rated pumping capacity of greater than 45 gallons per minute (gpm), or systems of lesser capacity proposed on a site with existing water supply wells and for which the combined pumping capacity of proposed on a site with existing water supply wells and for which the combined pumping capacity of proposed and existing wells exceeds 45 gpm, must obtain a well permit from the NYSDEC Division of Water.
- d. Open loop systems with a rated pumping capacity of greater than 45 gpm shall employ use of a

plate-frame or shell-in-tube heat exchanger (HX) installed between the well piping and building hydronic loop to prevent cross-contamination of the return water by refrigerant, biocides, or corrosion inhibitors.

- e. Heat pump coils and HS material of construction for open loop systems must be compatible with the groundwater chemistry per manufacturer's limits.

f. Water Extraction

- Open loop systems may utilize a waterway to the extent permissible under federal, state or local municipal laws or regulations.

- Installation requirements for open loop wells shall be the same as those for potable water wells with respect to the means to prevent aquifer contamination (grouting, etc.), or in conformance with standards, regulations, or guidelines established by the City Engineer, NYSDEC, NGWA, and AWWA.

- Any water table drawdown caused by an extraction well or wells shall not cause harm to the environment or otherwise impact the use of existing water supply wells on neighboring properties.

g. Discharge of Water

- Discharge of water from open loop systems into storm or sanitary sewer systems shall be prohibited, except upon written approval of the Commissioner of Public Works or other authority having jurisdiction.

- Discharge of water from open loop systems into a waterway or tidal or freshwater wetland is not allowed unless approved by applicable federal, state and local authorities.

- Underground injection of water discharge from an open loop system shall be subject to the following conditions:

4. For DX systems, the following shall apply:

- a. DX system contractors shall demonstrate that they have successfully completed a DX system installers training course and are certified by an applicable equipment and material manufacturer to install DX systems.

- b. Piping and tubing shall be of a material equivalent

to or better than Type Air Conditioning Refrigeration (ACR) piping, tubing and associated fittings in accordance with the appropriate ASTM standard and ASME standard.

c. Below-grade joints shall be purged with inert gas and brazed in accordance with American Welding Society (AWS) standards. Piping tubing and fittings shall be installed in accordance with CSA standards.

d. DX system contractors shall perform joining of all refrigerant connections per CSA standards.

e. All underground Type ACR piping and tubing shall have a cathodic protection system which shall be designed and installed in accordance with the appropriate CSA standards and local site-specific conditions.

f. For vertical DX boreholes that are drilled into saturated aquifer materials (below the water table), the borehole annulus shall be filled and sealed through its entire depth with a geothermal grout from the bottom of the borehole to the top using the tremie method of grouting per CSA standards.

g. Horizontal DX GHXs and vertical DX boreholes lying above the water table shall be backfilled and compacted as specified in this section. Due consideration shall be given to settling of the excavated area.

E. **As-Built Drawings.** Upon completion of construction, a scaled as-built drawing must be provided showing the locations of buried wells, closed loops, DX boreholes and horizontal connector piping, triangulated from two points on the property such as a building corner or other permanent structure. Offsets must also be shown from the nearest property line, and on-site septic systems and private water wells.

F. Setbacks

1. For systems sized to serve conditioned space of 3,000 square feet of interior space or less, all geothermal equipment shall be located within the permitted yard setbacks for an accessory structure. For larger sized systems, all geothermal equipment shall be located within the permitted yard setbacks for a primary structure, or 25 feet from a property line, whichever is less.

2. All horizontal closed-loop systems shall be no more than 20 feet deep.

3. Above ground equipment associated with geothermal pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.

4. All geothermal systems shall be located a minimum distance of:

a. Ten feet from any water, sewage or utility line.

b. Ten feet from any building foundation.

c. Twenty-five feet from any potential source of contamination, such as underground fuel tanks, except a supply well in an open loop system shall be a minimum of 50 feet from such potential source of contamination.

d. Fifty feet from any storm water recharge structure.

e. Fifty feet from any sewage disposal structure, such as a septic tank or cesspool or leaching field, except a supply well in an open loop system shall be a minimum of 75 feet from such sewage disposal structure.

f. All setbacks or separation distances shall be verified by a qualified water supply engineer or hydrogeologist in order to protect against thermal impacts, water level drawdowns and groundwater impacts or structures.

G. **Decommissioning.** If the geothermal system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at his/her expense in accordance with the requirements of the Code Enforcement Officer and any other decommissioning jurisdictional entity including NYSDEC.

3.2.7 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, zoning 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. Requirements

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 gross floor area of the residential unit, up to a maximum of 500 square feet; ## Note: Planning Department to advise if accessory structures should be allowed for this as well.
3. Employees or staff shall be limited to 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 plaque 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 in accordance with the design and permitting requirements of Article 4.11.
7. The home occupation shall not be conducted or advertised in a manner that generates a substantially greater volume of vehicular or pedestrian traffic than normally occurs in the residential district in which the home occupation is located. ## Note: Added by TRAC.

C. 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.

D. 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.~~

E. 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.~~

3.2.8 Short Term Rentals

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

3.2.9 Solar Access Panels

Note: This section under construction, to be coordinated with input from city Sustainability Coordinator. Need to discuss how this should be filed since some solar installs are accessory, while others aren't, however it makes sense to keep them together.

~~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. Solar - Small Scale Roof Mount.** A solar energy system located on the roof of any legally permitted building for the purpose of producing electricity for onsite consumption. May include Building Integrated solar shingles. Must be 25 kW or less. Treated as an Accessory Use. Type 1 installs are reviewed and permitted by the city 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. Solar - Small Scale Ground Mount.** A solar energy system that is anchored to the ground and attached to a pole or frame, detached from any other structure, for the purpose of producing electricity for onsite consumption. Treated as an Accessory Structure for the purposes of review, approval and permitting. Permitted in rear or side yards only. Requires Architectural or Historic Design Review in those districts.

- D. Solar - Large Scale Roof Mount.** A solar energy system located on the roof of a permitted building or parking

garage for the purpose of producing electricity for onsite or offsite consumption. Treated as an Accessory Use for the purposes of review, approval and permitting. Type 3 installations require Site Plan Review, and may require Architectural or Historic Design Review in those districts.

- E. Solar - Large Scale Ground Mount.** A solar energy system that is anchored to the ground and attached to a pole or frame, detached from any other structure, for the purpose of producing electricity for offsite sale or consumption. This is treated as a Primary Structure for the purposes of review, approval and permitting. Type 4 installations require Special Use Permit and Site Plan Review.
- 1.** Requires copies of all necessary easements, and a complete and updated Property Operation and Maintenance Plan kept on file with the city.
 - 2.** Requires 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 is abandoned.
 - a.** Solar energy systems are considered abandoned if they cease electrical generation for a period of more than two years. Applications for extensions shall be reviewed by the Planning Board for a period of ten years.
 - b.** 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.

Note: For discussion. Potential to accommodate large scale ground mount as an accessory use above a surface parking lot (canopies over cars) with additional conditions, restrictions.

F. General Solar Install Requirements

- 1.** Solar Energy Systems shall not exceed the maximum height restriction of the zoning district.
- 2.** No large scale solar energy systems may be installed in designated Sensitive Environmental Areas; areas of steep slopes (20% or more); within a designated wetland; or a Critical Environmental Area (CEA) as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of

Engineers or other governing body.

3. All large scale solar energy systems shall be enclosed by perimeter fencing to prevent unauthorized access. Warning signs with the owners' contact information shall be placed on the entrance and perimeter.
4. The surface area of any ground mounted solar panels shall not be considered as impervious surface area for the purposes of lot coverage limitations, however any new footers, slabs or other impervious surfaces constructed underneath for the purposes of supporting the system shall be included.

3.2.10 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. For properties on corner lots, no pool may be installed on a yard with frontage on a public street, and must instead be installed behind the home in the rear yard only.
3. 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.

3.2.11 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.