

Village of Port Henry Local Law No. 1 of 2017

A Local Law enacting a Zoning Law for the Village of Port Henry

Be it enacted by the Village Board of the Village of Port Henry, Essex County, New York, as follows:

Table of Contents

ARTICLE I TITLE, ENACTING CLAUSE, SCOPE AND PURPOSES 3

 1.1 Enacting Clause 3

 1.2 Title and Scope 3

 1.3 Purposes 3

 1.4 Applicability 4

 1.5 Relation to other Regulations 4

 1.6 Severability 5

 1.7 Effective Date 5

ARTICLE II ZONING MAP AND DISTRICTS 6

 2.1 Official Zoning Map 6

 2.2 District Boundaries 6

 2.3 Establishment of Zoning Districts 6

Article III District Purposes, Uses, Specific Regulations 6

 3.1 Review of Land Uses 6

 3.2 Purposes of Districts 7

 3.3 Allowed Uses 8

 3.4 Dimensions and Area Requirements 13

Article IV Regulations for all Districts 14

 4.1 General 14

Article V Supplementary Standards for Specific Uses or Structures 15

 5.1 General 15

 5.2 Signs 15

 5.3 Aesthetics 18

 5.4 Off-Site Impacts 19

 5.5 Existing Topography and Vegetation 19

 5.6 Highway Corridors 19

 5.7 Unique Historical/Geological Forms 19

 5.8 Scenic Views 19

 5.9 Construction Activities, Erosion, and Drainage 20

 5.10 Roads and Parking 20

 5.11 Water Supply 22

 5.12 Emergency Access 22

 5.13 Impact on Municipal Services 22

 5.14 Shoreline Protection 22

 5.15 Multiple Family Dwellings 23

 5.16 Historical Property 23

Village of Port Henry Zoning Law, Adopted January 2017

5.17 Home Occupations, Minor and Major 24

5.18 Non-Residential Structure Design Standards..... 25

Article VI Development Review (Site Plan Review) 28

6.1 Relation to Development Review Law 28

6.2 Authorization of Planning Board..... 28

6.3 Applicability of Site Plan Review 28

6.4 Preliminary Sketch Plan Review 29

6.5 Application Requirements..... 29

6.6 Minor Site Plan Review 31

6.7 Planning Board Review and Decision 31

6.8 Consultant and Professional Review 33

6.9 Public Hearing Notice and Conduct 33

6.10 Extension of Time Period 34

6.11 Required Referral 34

6.12 Appeal of Planning Board Decision 34

6.13 Required Fee 34

6.14 Reimbursement of Costs..... 34

Article VII Nonconforming Uses and Structures 34

Article VIII Zoning Board of Appeals 36

8.1 Membership..... 36

8.2 Powers..... 36

8.3 Conduct of Business 36

8.4 Permitted action by Board of Appeals..... 38

8.5 Court Review of Board Decisions 40

Article IX Planning Board 40

9.1 Appointment of Members and Terms. 40

9.2 Board Composition. 41

9.3 Voting Procedures..... 41

9.4 Decisions. 42

9.5 Conflicts..... 42

9.6 Appeals..... 42

Article X Enforcement..... 43

Article XI Amendments..... 45

11.1 Authority. 45

11.2 Advisory Report by Planning Board. 45

11.3 Referral to the County Planning Board..... 45

11.4 Public Hearing and Notice..... 45

11.5 Local Protest..... 46

11.6 Adoption of Amendments..... 46

11.7 Publication and Posting..... 46

Article XII Definitions 47

ARTICLE I TITLE, ENACTING CLAUSE, SCOPE AND PURPOSES

1.1 Enacting Clause

Pursuant to the authority conferred by Article 7 of the Village Law of the State of New York, the Village Board of the Village of Port Henry hereby adopts and enacts this Law as the Zoning Law of the Village of Port Henry.

1.2 Title and Scope

This Local Law shall be known as the “Zoning Law” and is a law regulating the development, design, and use of structures and land in the Village of Port Henry. This Zoning Law incorporates and supersedes the Village of Port Henry Development Review Law, Local Law #1 of 2007.

1.3 Purposes

This Zoning Law has been developed to be consistent with and as a method to implement the adopted Village of Port Henry Comprehensive Plan. The primary purpose of this law is to protect and promote public health, safety, and the general welfare of the Village. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the residents of the Village. In addition, such an environment is deemed essential to the maintenance and continued positive development of the economy of the Village and the general welfare of its inhabitants. Further purposes of this Zoning Law are to:

- A. Enhance the economic viability of the Village, especially of the downtown area in a manner that is consistent with the community character, environmental, and land use goals established in the Village of Port Henry Comprehensive Plan.
- B. Maintain the health of our environment and natural resources.
- C. Ensure that the shoreline along Lake Champlain is recognized as a significant natural resource with enormous potential that can benefit the Village, and to ensure that shoreline development is supervised to protect and enhance this area.
- D. Preserve historic structures and sites and the architectural character of the Village. The maintenance and conservation of the Village’s existing historic and architectural character is also deemed essential to the continued development of the economy of the Village. Inharmonious development could adversely impact irretrievable historic and architectural resources.
- E. Improve the aesthetic character of the Village.
- F. Provide a diversity of housing opportunities for all segments of our population.
- G. Protect residents from nuisances such as but not limited to noise, odors, pollution and unsightly or obtrusive land uses and activities.
- H. Encourage mixed use buildings, while preserving first floor space in the downtown area for commercial uses.

- I. Provide for an efficient review process that meets these purposes but does not discourage new land uses in the Village.
- J. Achieve the objectives established in the former Village of Port Henry Development Review Law (Local Law #1 of 2007), now incorporated into this Zoning Law as follows:
 - (1) Preserve and improve the historic character of the Village.
 - (2) Ensure and enhance adequate public access to Lake Champlain both now and in the future.
 - (3) Improve the visual quality of major streets.
 - (4) Concentrate traffic and services in areas suitable for development.
 - (5) Protect residential areas from traffic, noise and incompatible uses.
 - (6) Establish an orderly method for evaluating individual projects and organizing growth and development so that they will enhance the character of the Village as well as the economy.
 - (7) Ensure that new development is in keeping with adjacent uses, neighborhood character and Village character.
 - (8) Protect and enhance the natural beauty of the area so that it may be enjoyed by future generations.
 - (9) Protect structures and areas of historic or architectural importance from demolition or incompatible adjacent uses.
 - (10) Enhance the image of the Village to residents and visitors.

1.4 Applicability

- A. This Law shall apply to all new uses, changes to existing uses and all nonconforming uses as defined in this Zoning Law. Table 1 details the uses that are permitted and prohibited within the Village.
 - (1) Those uses identified as “P” (Permitted) in Table 1 do not require Planning Board review, but may require a Building Permit from the Code Enforcement Officer. Single family and two-family dwellings are permitted and do not require planning board approval.
 - (2) Those uses identified as “SP” require site plan approval from the Planning Board before a building permit can be issued.
 - (3) Those uses identified as “X” are not permitted in the Village. Other uses not included in the table shall be considered to be prohibited.
- B. All buildings under construction at the time this law is adopted shall be allowed to conform to the laws that were in effect at the time construction was commenced.
- C. Nothing contained in this Law shall require any change in plans or construction of a building for which a building/zoning permit has previously been issued prior to adoption of this Zoning Law.
- D. Except for single family and two-family dwellings, any use that has been discontinued for a period of 2 years or more shall be subject to review pursuant to the terms of this Zoning Law before such use is resumed.

1.5 Relation to other Regulations

This Zoning Law applies in addition to all other local, State or Federal agencies having jurisdiction, including but not limited to the New York State Department of Environmental

Conservation, Department of Health, Adirondack Park Agency, and the U.S. Army Corps of Engineers. Additional development standards, procedures, fees, or regulations may be required pursuant to the following additional local laws adopted by the Village of Port Henry, as well as any subsequent amendments to same:

- #1 of 1981 - Rubbish and Abandoned Vehicles
- #2 of 1984 - Flood Control
- #1 of 1987 - Flood Damage
- #1 of 1985 - Sewer Use
- #1 of 2003 - Restricting Adult Uses
- #2 of 2004 - Prohibiting Farm Animals in Village
- #2 of 2007 - Outdoor Furnace Regulations
- #1 of 2009 - NYS Uniform Fire Prevention and Building Codes
- #2 of 2011 - Water Law
- #3 of 2012 - Unsafe Structure Law

1.6 Severability

- A. If any section, specific part, provision or standard of this Zoning Law shall be determined to be invalid by any court of competent jurisdiction, such judgment shall be confined only to the part, provision or standard directly involved with the judgment rendered and shall not affect or impair the validity of the remainder of this Zoning Law in any other circumstance. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.
- B. If any land use district boundary established by this Zoning Law is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, part, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

1.7 Effective Date

This law shall become effective upon filing with the New York State Department of State.

ARTICLE II ZONING MAP AND DISTRICTS

2.1 Official Zoning Map

- A. Zoning Map. The location and boundaries of each zoning district established in the Village of Port Henry are shown on the map entitled “Village of Port Henry Zoning Map”. This map, together with everything shown on them, is hereby adopted and declared to be a part of this Law.

2.2 District Boundaries

- A. Where district boundaries are shown to follow lot lines, such lot lines shall be considered to be the boundary.
- B. Where district boundaries are shown to follow center lines of streets or highways, street lines or highway right-of-way lines, such lines shall be considered to be the boundary.
- C. Where uncertainty exists in determining the precise location of any district boundary line, the Zoning Board of Appeals shall interpret the zoning map and determine the location of the district boundary line.

2.3 Establishment of Zoning Districts

- A. In order to fulfill the purpose of this Law, the Village of Port Henry establishes six zoning districts as follows:

| | |
|-----|---|
| DC | Downtown Commercial District |
| R | Residential District |
| T | Transition District |
| U | Undeveloped District |
| WPR | Waterfront and Public Recreation District |
| I | Industrial District |

Article III District Purposes, Uses, Specific Regulations

3.1 Review of Land Uses

- A. As per Table 1, most land uses will require site plan approval by the Planning Board prior to issuance of a building permit. Single family and two-family land uses do not need Planning Board review. Apartments and multi-family dwellings are among those residential land uses that shall require Planning Board review as per Table 1 and Article VI of this Zoning Law.

- B. The Codes Enforcement Officer shall not issue a building permit for land use activities requiring site plan review, as identified in Table 1 of this Zoning Law for which the Planning Board has not granted approval.
- C. Although some land uses do not require Planning Board approval, all new land use activities shall meet the standards and requirements under this Zoning Law except those that are specifically excluded herein.

3.2 Purposes of Districts

3.2.1 Downtown Commercial District

The purpose of the Downtown Commercial District is to promote retail and other commercial uses within the traditional location of the Port Henry downtown. This district includes the existing commercial area in the Village serving the shopping, professional office and personal service needs of the Village. New development here is desired to be compatible with the uses, design, and siting of buildings in this area. This district is primarily pedestrian-oriented with accommodations for vehicles. To promote economic opportunities, ground floor store fronts within the Downtown Commercial District shall remain commercial. The District allows for non-commercial uses in upper floors and to the rear of the ground floor store fronts.

3.2.2 Residential

The purpose of the Residential District is to provide locations for a wide variety of residential development uses including single family dwellings, multiple family dwellings, group homes, room and boarding facilities, and temporary lodging, such as B&Bs. Small home-based businesses that can be operated out of a portion of the house or accessory building such as a garage are also allowed, subject to compliance with other sections of this law.

3.2.3 Transition District

The purpose of the Transition District is to provide a location for mixed uses allowing for the expansion of existing and accommodation for future commercial uses while allowing for flexibility for residential uses as economic conditions change. Here, the Village recognizes that future development and growth could move in either direction - more commercial and less residential, or more residential and less commercial - and is an area where a mix of both uses are compatible with each other. This District should be allowed to develop as future economic opportunities occur, and property owners should be allowed to develop either residential or commercial uses.

3.2.4 Undeveloped District

The purpose of the Undeveloped District is to protect the unique natural characteristics and resources found on the few largely undeveloped properties in the Village. These are sensitive locations in the Village due to steep slopes and lack of key Village services (water, sewer, street access), and are generally in a natural and undeveloped state. These properties should not be further sub-divided without proper review and approval of the Planning Board, and except for single and two-family homes, other more intensive uses should not be developed without an approved site development plan.

3.2.5 Waterfront and Public Recreation District

The purpose of the Waterfront and Public Recreation District is to provide opportunities for uses that improve access to the lake, provide for public enjoyment of the Lake, and offer additional recreational opportunities. Marinas, campgrounds, beaches, and parks are examples of land uses that are encouraged in this District. The development of tourist-oriented businesses, including lodging and food service is also encouraged here. This district is currently a mix of publicly-owned and privately-owned lands.

3.2.6 Industrial District

The purpose of the Industrial District is to provide for more intensive commercial and industrial uses on properties that have had past industrial or more intense land uses. This district allows for research, commercial, light manufacturing, and wholesale activities, warehousing and storage, distribution centers, fuel storage and distribution, auto recycling and repair, used car lots, and other businesses that primarily rely on delivery rather than over-the-counter contact with their customers.

3.3 Allowed Uses

Permitted land use regulations for each land use district are set forth in the following Schedule of Use Regulations (Table 1). This Schedule is supplemented, as appropriate, by other standards or regulations specific to the district or use as detailed in this Zoning Law.

Any use not listed specifically as either a permitted use, or a use that requires site plan review in Table 1 shall be considered a prohibited use under this zoning law.

Schedule of Use Regulations

Table 1 Key:

- P = Permitted use with no Planning Board review required.
- SP = Permitted use subject to Planning Board site plan approval, as per Article VI
- X = Prohibited use

Any other use not included in this table shall be deemed a prohibited use.

Table 1: Schedule of Allowed Uses

| Type of Use | DC | R | T | U | WPR | I |
|--|--------|----|----|----|-----|----|
| Residential Uses | | | | | | |
| Single Family Dwelling as principal use | X [1] | P | P | P | P | X |
| Two Family Dwelling as principal use | X | P | P | P | P | X |
| One or Two Family Dwelling as an accessory use, above or behind a first floor Commercial Use | SP [2] | X | SP | X | X | X |
| Multifamily Dwelling, Apartment Building | X | SP | SP | SP | X | X |
| Individual Mobile Home or Manufactured Home | X | P | P | SP | SP | X |
| Boarding, Lodging, or Rooming House | X | SP | SP | X | SP | X |
| Community Residence | X | SP | SP | X | X | X |
| Seasonal Cottage or Cabin | X | P | P | SP | P | X |
| Senior Citizen Housing | X | SP | SP | X | X | X |
| Commercial Uses | | | | | | |
| Agricultural Processing Facility | X | X | X | X | X | SP |
| Agricultural Use or Agri-Tourism Structure | X | X | SP | SP | SP | X |
| Agricultural Use | X | X | P | P | P | X |
| Amusement Establishment, Indoor | SP | X | SP | X | SP | X |
| Amusement establishment, Outdoor | X | X | SP | SP | SP | X |
| Animal Hospital | SP | X | SP | X | X | X |
| Automobile Dealer | X | X | SP | X | X | SP |
| Automobile Service Facility | X | X | SP | X | X | SP |
| Bank | SP | X | SP | X | X | SP |
| Bed-and-breakfast establishment | SP | SP | SP | SP | SP | X |
| Business Service | SP | X | SP | X | X | X |

Village of Port Henry Zoning Law, Adopted January 2017

| Type of Use | DC | R | T | U | WPR | I |
|--|-----------|----------|----------|----------|------------|----------|
| Campground | X | X | SP | SP | SP | X |
| Car Wash | X | X | SP | X | X | SP |
| Cemetery | X | SP | X | SP | X | X |
| Church or other place of worship | SP | SP | SP | X | X | X |
| Convenience store | SP | X | SP | X | X | X |
| Country Club or Golf Course | X | X | X | SP | SP | X |
| Cultural Facility | SP | SP | SP | X | SP | X |
| Day Camp | X | SP | SP | SP | SP | X |
| Day Care Center or Nursery School | X | SP | SP | X | X | X |
| Farmers' Market | SP | X | SP | X | SP | SP |
| Farm stand (See Also Roadside Stand) | SP | X | SP | SP | SP | SP |
| Food Processing Facility -Small Scale | X | X | SP | X | X | SP |
| Forestry and Logging Operation | X | X | X | P | X | X |
| Funeral home | X | SP | SP | X | X | X |
| Garage, Public | X | X | SP | X | X | SP |
| Gasoline Station | X | X | SP | X | X | SP |
| Greenhouse | X | X | SP | SP | X | X |
| Guest Cottage | X | SP | SP | SP | SP | X |
| Horse Boarding Operation | X | X | X | SP | X | X |
| Hospital | X | X | SP | X | X | X |
| Hotel or Motel | X | X | SP | X | SP | X |
| Kennel, Boarding or Breeding | X | X | SP | SP | X | X |
| Launderette or Dry Cleaner | SP | X | SP | X | X | SP |
| Lumberyard | X | X | X | X | X | SP |
| Marina or Boat Basin | X | X | X | X | SP | SP |
| Medical Clinic | X | X | SP | X | X | SP |
| Motor Vehicle Service or Repair Shop, Equipment Repair | X | X | SP | X | X | SP |
| Municipal Buildings | P | P | P | P | P | P |

Village of Port Henry Zoning Law, Adopted January 2017

| Type of Use | DC | R | T | U | WPR | I |
|---|-----------|----------|----------|----------|------------|----------|
| Not-for-profit membership club or Social Organization, not including an outdoor recreational use. | SP | SP | SP | SP | SP | X |
| Not-for-profit or other noncommercial recreational use or facility | X | SP | SP | SP | SP | X |
| Nursery | X | X | SP | SP | X | X |
| Nursing Home, Assisted Living Facility | X | X | SP | X | X | X |
| Outdoor Sales as an Accessory Use When an Extension of Interior Sales Floor (see Definitions) | P | X | P | X | P | P |
| Parks and Recreation areas | X | P | P | P | P | X |
| Personal Service Establishment | SP | X | SP | X | X | X |
| Private academic, parochial, charter, or technical school | X | SP | SP | X | X | X |
| Professional Office | SP | X | SP | X | X | X |
| Recycling Facility, or Junkyard | X | X | X | X | X | SP |
| Restaurant | SP | X | SP | X | SP | X |
| Retail Sales | SP | X | SP | X | SP | X |
| Roadside Stand or Temporary Agricultural Produce Stand | P | P | P | P | P | X |
| School conducted for profit | SP | X | SP | X | X | X |
| Self-Storage, or Warehouse | X | X | SP | X | X | SP |
| Shopping Center | SP | X | SP | X | X | X |
| Solar Energy System, large scale | X | X | X | SP | X | SP |
| Solar Energy System, small scale, building mounted | P | P | P | P | P | P |
| Solar Energy System, small scale, ground mounted | SP | SP | SP | SP | SP | SP |
| Tavern, Bar or Nightclub | SP | X | SP | X | SP | X |
| Vacation Rental by Owner (Air B&B) | X | SP | SP | SP | SP | X |

Accessory Uses

Village of Port Henry Zoning Law, Adopted January 2017

| Type of Use | DC | R | T | U | WPR | I |
|---|-----------|----------|----------|----------|------------|----------|
| Accessory apartment | P [3] | P | P | SP | X | X |
| Accessory use or structure or facility incidental to the permitted use, located on the same lot. | SP | P | P | SP | SP | SP |
| Fence up to and including 4 ½ feet tall | P | P | P | P | P | P |
| Fence over 4 ½ feet tall located in front of building | SP | SP | SP | SP | SP | SP |
| Garages, private | SP | P | P | SP | SP | SP |
| Guest House | X | SP | SP | SP | SP | X |
| Home Occupation, Minor | P | P | P | P | P | X |
| Home Occupation, Major | SP | SP | SP | SP | SP | X |
| Keeping Domestic Animals and private stabling of horses | X | X | X | SP | X | X |
| Outdoor storage of materials, equipment or vehicles associated with a Major Home Occupation, or commercial use. | SP | SP | SP | SP | SP | X |
| Industrial Uses | | | | | | |
| Bulk storage including: oil, gasoline & gas storage | X | X | X | X | X | SP |
| Contractor's Yard | X | X | X | X | X | SP |
| Distribution Facility or Food-Hub | X | X | SP | X | X | SP |
| Equipment rental or sales | X | X | SP | X | X | SP |
| Extractive Operations and Mines | X | X | X | X | X | X |
| Landfill | X | X | X | X | X | X |
| Manufacturing or Processing Facility | X | X | X | X | X | SP |
| Public Utility (facility or structure) | SP | SP | SP | SP | SP | SP |
| Research Laboratory | X | X | SP | X | X | SP |
| Warehouse | X | X | X | X | X | SP |
| Wireless Telecommunications Towers and Facilities, not Co-located (May need APA Permit if over 40') | X | X | X | SP | X | X |
| Wireless Telecommunications Towers and Facilities, | SP | X | SP | SP | X | SP |

Type of Use

DC R T U WPR I

Co-located (May need APA Permit if over 40')

[1] Single Family Residential Dwellings existing at the time of adoption of this Local Law shall be allowed to continue.

[2] Residential uses located on the first floor in the Downtown Commercial District are limited to 25% of the total floor area and must be located to the rear of the principal commercial use.

[3] Residential uses located on the first floor in the Downtown Commercial District are limited to 25% of the total floor area and must be located to the rear of the principal commercial use.

3.4 Dimensions and Area Requirements

The following dimensions, setbacks, height, and size requirements shall be met for all new construction in the Village of Port Henry:

For All Districts:

- **Adjacent to Railroad:** Building setbacks for all principal and accessory structures shall be a minimum of 50 feet from any railroad property line or a distance as may be required by a State or Federal law.
- **Adjacent to Streams or Wetland:** Building setbacks for all principal and accessory structures shall be set back from all streams and wetlands, a minimum of 100 feet or a distance as may be required by State or Federal Law.
- **Setback from Lake Champlain Shore:** Single family and two family residential dwellings, buildings, additions, and accessory structures shall be set back from the mean high water mark of Lake Champlain a minimum of 100 feet or a distance as may be required by APA, State or Federal Law.
- **Building Footprint:** No commercial building shall have a footprint larger than 30,000 square feet. Single family and two family residential dwellings, buildings, and additions shall not have a foot print (first floor area) larger than 2,500 square feet.
- **Maximum Height:** Single family and two family residential dwellings, buildings, and additions shall not exceed 3 stories in height. Commercial structures in Downtown and Transition Districts may be 5 stories in height.

Downtown Commercial District:

- **Building Height:** Buildings shall be a minimum of 2 stories in height, and a maximum of 5 stories in height. However, it is preferred that buildings be not more than forty (40) feet high or consistent with adjacent existing buildings. The Planning Board will evaluate higher buildings during site plan review.
- **Setbacks:** Buildings in this district are allowed to have zero front and side setbacks from

the property line. Setbacks of new structures should be consistent with adjacent structures.

- Side Access: The Planning Board may require that service access ways be included in site plan for parking or rear access on one side of the building up to 15 feet in width.

Residential District:

- Setbacks: Single family and two family residential dwellings, buildings, additions, and accessory structures shall have front, side and rear setbacks a minimum of 15 feet. The front setback shall be measured from the edge of the roadway.

Transition District

- Building Height: All buildings in the Transition District fronting on Main Street shall be a minimum of 2 stories in height, and a maximum of 5 stories in height.
- Setbacks: All buildings shall have front, side and rear setbacks a minimum of 15 feet. Setbacks of new structures should be consistent with adjacent structures. The front setback shall be measured from the edge of the roadway.

Undeveloped District

- Building Height: Buildings shall be a maximum of 3 stories in height.

Waterfront and Public Recreation District

- Building Height: Buildings shall be a maximum of 3 stories in height.
- Setbacks: Building setbacks shall be a minimum of 100 feet from the mean high water mark of Lake Champlain.
 - No boat dock or dockage area shall be located closer than 10 feet to any adjoining property line.
 - No on-site sewage tile field or seepage pit shall be located within 100 feet of the mean high water mark of Lake Champlain.
 - No on-site sewage holding tank shall be located closer than 100 feet of the mean high water mark of Lake Champlain.

Industrial District

- Building Height: Buildings shall be a maximum of 3 stories in height.

Article IV Regulations for all Districts

4.1 General

- A. No lot existing at the time of adoption of this Zoning Law may be further subdivided without Planning Board site plan approval.
- B. Only one principal use shall be allowed per lot.

- C. The Planning Board and Code Enforcement Officer shall ensure that the following general standards are met regardless of zoning district:
- (1) No Odor, smoke, dust, and other atmospheric pollutants. The emission of odor, smoke and other particulate matter or the production of odors of concentrations of noxious or explosive gases shall be prohibited.
 - (2) No Heat. No heat shall be produced that is perceptible beyond the boundaries of the lot from which the heat is emanating.
 - (3) No Fire and explosion hazards. All State and federal requirements applicable to fire and explosion hazards shall be met. The Planning Board may request an advisory opinion from the local fire department as to the Department's capacity to address any potential fire and explosion hazards which may be generated by the application.
 - (4) No Nuisance Vibration. No nuisance noise or vibration shall be permitted which is capable of being felt by any person lawfully at any adjoining lot line.
 - (5) No Light Pollution and Glare. No use shall produce glare so as to cause illumination beyond the boundaries of the property on which it is located. No direct glare shall be permitted and all lighting fixtures shall be shielded so that the angle of illumination is directed downwards rather than out.
 - (6) Commercial Window Maintenance. All windows of vacant commercial structures shall be well-maintained at all times. No such window may be covered with plywood or other materials, cardboard, duct tape, or boarded up at any time. Broken windows shall be repaired.

Article V Supplementary Standards for Specific Uses or Structures

5.1 General

This section details development standards for specific uses and structures. These supplemental standards were originally established in the Village of Port Henry Development Review Law (Local Law #1 of 2007) and have been incorporated into appropriate sections of this Zoning Law. No building permit shall be issued by the Code Enforcement Officer until it is determined that either these standards have been met, or the Planning Board has issued a site plan approval.

5.2 Signs

- A. Purpose. The purpose of these standards is to provide a coordinated, uniform and consistent approach for the Village of Port Henry Planning Board's review of signs proposed to be erected or maintained in the village, taking into consideration the historic, cultural, scenic, aesthetic and natural resources sought to be protected by this law. The appearance, character and quality of a community are affected by the location, size, materials and graphic design of signs. Therefore, such signs shall convey their messages clearly and simply to enhance their surroundings. These standards are intended to:
- (1) Promote and protect the public health, welfare and safety by regulating signs;
 - (2) Prevent sign or advertising distractions and obstructions that may contribute to traffic accidents;
 - (3) Reduce hazards that may be caused by signs overhanging or projecting over public

- rights-of-way;
- (4) Enhance and protect the village's physical appearance, historic character and natural beauty in order to provide a more enjoyable and pleasing community for residents and visitors;
 - (5) Protect property values by creating a more attractive business and tourism climate; and Village of Port Henry Development Review Law
 - (6) Encourage use of well-designed signs that clearly present visual messages in a manner compatible with their surroundings.

B. Signs not Requiring Review. Signs meeting the following criteria **are exempt from Planning Board review**. Signs that are part of a project being reviewed by the Planning Board for site plan approval shall be evaluated as part of that process. Signs that are planned to replace existing signs shall meet the requirements of this section but shall not require site plan approval before issuance of a building permit.

- (1) Small Signs. Non-lighted signs that are equal to or less than 4 square feet in size.
- (2) Property Sale or Rental Signs. One sign that advertising the sale or rental of the premises upon which the sign is located.
- (3) Contractor Sign. One sign advertising the architect, engineer or contractor working or responsible for a project on the premises upon which the sign is located.
- (4) Home Business Sign. One professional or trade name plate, or home business sign.
- (5) Directional or Hazard Signs. Signs that mark property boundaries, give directions, prohibit trespassing, hunting, fishing or off-road vehicles or warn of hazards.
- (6) Historic Markers. Historic markers, memorial signs or plaques, or names of buildings and dates of erection.
- (7) Residential Address Signs. Signs giving the name of the residents of a dwelling or its address.
- (8) Temporary Signs. Temporary signs relating to garage, lawn or other individual, non-recurring sales, for the sale of produce grown or harvested by the property owner, or for a political campaign. Such temporary signs must be removed within three days of the termination of the event being advertised. Any temporary sign placed to advertise a civic event or an event sponsored by a house of worship, school, library, museum, social club or society; such temporary signs must be removed within 3 days of the termination of the event being advertised. Up to 2 temporary advertising signs 15 square feet or less in area placed on the premises of a business for a period of not more than 14 days.
- (9) Government Signs, Flags: Signs of any size erected by the federal, state, county or local government or any department or agency thereof, or any patriotic flag or banner not used for commercial advertising purposes.

C. Number of Signs

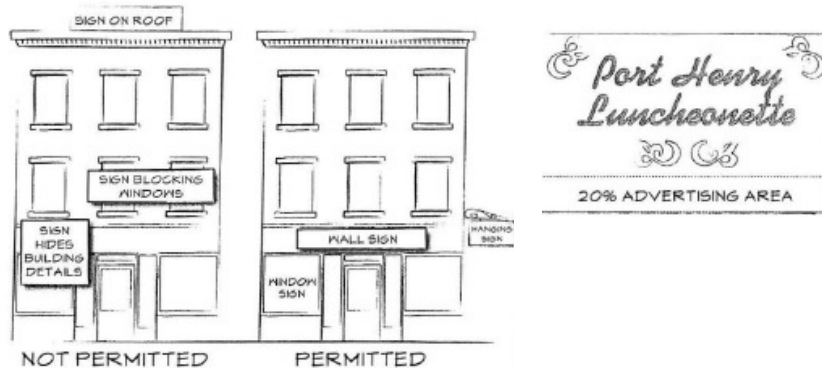
- (1) No more than 2 signs may be erected or maintained on any given lot to advertise or relates to a single business or activity, not including signs exempt under Section 5.2 (2).
- (2) Not more than 1 freestanding sign may be erected or maintained upon any single premises.
- (3) For signs on properties where more than one business activity is being conducted, such as at a shopping center a single free-standing sign not in excess of 40 square feet in sign area nor more than 10 feet in height may be erected identifying the center or facility as a whole and the names of the businesses within, bur shall not contain any other advertising matter. One individual wall or awning sign no more than 24 square feet in sign area may be erected for each separate principal activity, such as a shop or store.

D. Size, Height and Components of Signs.

- (1) No sign shall be erected or maintained having a sign area greater than 30 square feet.
- (2) If two signs are erected or maintained with respect to a given activity, the total sign area of the two signs shall not exceed a combined measurement of 60 square feet.
- (3) No free-standing sign shall exceed 10 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or its supporting structure.
- (4) Signs shall have a design and color scheme that is consistent with the character of the district and contain a minimal number of components so as to enhance readability and aesthetics. Signs for all businesses or activities on the premises shall reflect a reasonable uniformity of design, size, lettering, lighting and material.

(5) Design and Location of Signs.

- a) Lighted Signs.
 - i. No sign shall be illuminated by or contain flashing intermittent, rotating or moving light(s).
 - ii. No luminous sign, indirectly illuminated sign or lighting device shall be placed or directed that results in glare or direct beams of light on any public street, highway, sidewalk or adjacent premises, or that results in a traffic hazard or nuisance.
- b) No sign or any of its parts shall contain or consist of any banner, pennant, ribbon, streamer, spinner, balloon or other similar moving, fluttering or revolving device. Such devices, as well as strings of lights, shall not be used for advertising or attracting attention whether or not they are part of any sign. No sign or part thereof may rotate or move back and forth. A "sign" does not include the flag or pennant or insignia of any nation or association of nations or of any state, city or other political unit or of any charitable, educational, philanthropic, civic or religious organization. However, no commercial property may display more than 3 flags of a single type or erect a flagpole taller than 20 feet.
- c) No sign shall be placed upon or be supported by any water body or any tree, rock or other natural object rather than the ground.
- d) No sign shall be erected or maintained upon the roof of any building or structure.



e) Wall signs shall be placed in a manner that complements the architecture of buildings as illustrated left.

- f) No motor vehicle on which is placed or painted any sign intending to advertise the premises shall be parked or stationed on such premises or in a public parking space in a manner primarily intended to display the sign.

- g) No freestanding sign shall be erected or maintained within the right-of-way of a public road.
 - h) No sign shall impair the visibility of or sight distance for vehicles entering or existing a public road or private access.
 - i) No sign shall be erected or maintained more than 200 feet from the business or activity with which it is principally associated except as provided for in this Section. For the purposes of this provision, the location of a business or activity shall include all of the principal private access road connecting the actual place of that business or activity with a public street or highway.
- (6) Removal and Repair of Signs. Any sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located must be removed within 90 days. All signs are to be maintained in good condition. Any sign that is abandoned, unsafe, insecure or a menace to the public may be removed by the village at the owner's expense if the owner takes no action to rep air or remove such a sign within 30 days after written notification.
- (7) Portable Signs. A single portable sign not in excess of 6 square feet in area may be placed in front of the business or activity being advertised. No such sign may be placed in a manner that would restrict public access to sidewalks or parking lots. Portable signs may not be illuminated or embellished with devices as described in Section 5.2 D (5). Portable signs may only be placed out when the business being advertised is open for business.
- (8) Nonconforming Signs. A nonconforming sign is one that does not meet the size, height, location or design standards of this Zoning Law. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign. If a new project is proposed for a property that has existing signs that do not conform to the standards of this Zoning Law, the Planning Board may require that the nonconforming sign be brought into compliance with these standards.
- (9) Tourism Information Locations. Three locations exist within the Village for the purpose of providing tourist information: The Chamber of Commerce sign at Bulwagga Bay pull-off, the downtown booth on Main Street, and the kiosk at the boat launch. The Planning Board may approve off premise signs at these locations in coordination with and upon approval of the sponsoring organization and in conformance with the purposes of these standards.
- (10) Temporary Signs for Businesses. The Planning Board may approve one (1) temporary sign for a new business not to exceed 30 square feet in area to be erected for a period of 60 days or until the installation of a permanent sign, whichever is less.

5.3 Aesthetics

A. The following aesthetic standards shall be incorporated into the design of commercial developments including multi-family dwellings. They are recommended for home based businesses, single family and two-family dwellings.

- (1) Site development shall be planned so that it harmonizes with the existing landscape character and blends into the landscape by using existing landforms and vegetation. The location, size and intensity of the proposed activity shall be consistent with the style and character of the neighborhood.
- (2) Buildings shall be of a size, construction, material, color and facade, and have lot sizes and setbacks, which are in keeping with the historic nature of the Village and compatible with nearby buildings.

- (3) Facades of buildings in commercial areas especially shall conform closely to that of the adjacent buildings in terms of window and door openings, heights of first and subsequent stories, cornice treatment, materials and other visible characteristics.
- (4) In areas of mixed uses, adequate setbacks shall be provided and screening shall be used between dissimilar uses.

5.4 Off-Site Impacts

- A. Development shall be planned and undertaken so as to minimize impacts upon adjoining and nearby land uses (especially residences), and shall not adversely affect the existing character of the surrounding neighborhood.
- B. The locations, nature and height of buildings, walls, signs and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land buildings, and/or will not impair their value.

5.5 Existing Topography and Vegetation

- A. Existing vegetation, topography and careful siting methods shall be utilized to minimize the visual impact of the proposed development. Existing vegetation shall be retained along roads in sparsely developed areas.
- B. Hillside cuts for roads and other site development shall be stabilized and vegetated with native species to avoid erosion and highly contrasting unnatural landforms.
- C. Street trees removed during construction shall be replaced. Any new parking lot shall have new deciduous trees planted along the street between the parking lot and street or between the sidewalk and the street.

5.6 Highway Corridors

- A. The aesthetic character of the Village and the Village's highway corridors shall be preserved or enhanced to the maximum extent possible. Siting of buildings placed within high quality views or in the foreground view of highway corridors shall utilize vegetation and topographic screening and landscaping techniques to minimize their intrusion on the character of the area.

5.7 Unique Historical/Geological Forms

- A. Unique historical, natural or geologic features shall be preserved to the extent possible.
- B. Demolition of unique structures shall be avoided. Rehabilitation, renovation and adaptive reuse of structures shall be considered and demolition shall be proposed only when the existing structure cannot practically be used for a new or expanded land use activity.

5.8 Scenic Views

- A. In areas where the scenic views are an important component of the value of property, new uses that require Planning Board review shall be evaluated carefully in terms of their effect on these scenic views. Potential scenic views from public roads and public properties shall be protected to the maximum extent feasible.

- B. Methods to mitigate impacts on scenic views such as but not limited to use of vegetation screening, placement of structures along the edge of an open field instead of in the middle, use of natural colors, and placement of buildings below the crest of or ridgeline of hills to preserve a natural topographic and vegetative profile are encouraged. Roads, utility rights-of-way and other linear alterations shall follow topographic patterns to avoid forms which tend to stand out against the rolling mountainous terrain of the Adirondacks.

5.9 Construction Activities, Erosion, and Drainage

- A. All earth moving activities shall be planned in such a manner as to minimize the amount of land area disturbed. Any commercial development that disturbs more than 1 acre of land, and a residential development that disturbs more than 5 acres of land shall also be required to prepare a Stormwater Pollution Prevention Plan pursuant to New York State Department of Environmental Conservation stormwater requirements. The applicant shall conform to the latest published New York Standards and Specification for Erosion and Sediment Controls (August 2005) and the New York State Stormwater Management Design Manual (January 2015), found at the NYS DEC Website at <http://www.dec.ny.gov/chemical/8694.html>.
- B. Natural features such as topography, waterways and similar resources shall be preserved, and development shall
 - (1) conform substantially with natural boundaries and alignment of watercourses.
 - (2) Retain, wherever feasible, natural vegetation.
 - (3) Use soil stabilization measures including mulching and planting of vegetation to control soil erosion.
 - (4) Control runoff from any slope exposed for longer than fifteen (15) days through utilization of mulching, check dam, temporary sediment basins and other generally approved engineering methods.
 - (5) Topsoil from all areas to be excavated shall be removed and stored. Upon completion of the earth movement the topsoil shall be re-spread to provide a suitable base for seeding and planting.
 - (6) In general, natural undeveloped areas in wetlands or in areas of greater than twenty (20%) slope shall remain undeveloped.
 - (7) No on-site surface or ground water drainage system in connection with the construction or alteration of any building, structure or natural land form shall be located or constructed in such a manner as to intensify run-off in an unacceptable manner, pollute, or cause erosion on adjoining properties. Surface drainage shall be conveyed to an existing system of stormwater disposal where available, and all surface drainage shall be designed so as not to discharge onto walkways, streets, or adjacent property in such a manner as to create a nuisance or hazard, or into any sanitary sewer.
 - (8) Clear responsibilities for long-term maintenance of soil erosion methods including any retention and detention basins shall be outlined in the stormwater pollution prevention plan. Wherever possible, restrictive deed covenants shall be used to assure that maintenance responsibilities are legally binding.
- C. Wherever possible and feasible, surfaces for driveways, parking areas and similar areas shall be of permeable material.

5.10 Roads and Parking

- A. New streets, sidewalks and parking areas shall be consistent with the Village of Port Henry Complete Streets Policy, and new road and driveway standards, as may exist.

- B. Any new building and any conversion of an existing structure to multi-family housing shall provide for adequate off-street parking. Adequate off-street parking means that 80% of the maximum demand is met. The Planning Board may count available on-street parking toward the parking requirements for nonresidential uses in these districts provided that:
 - (1) These uses are within 400 feet of the uses to be served.
 - (2) The parking needs of existing facilities within 400 feet are satisfied first, and only excess capacity is used for this purpose.
 - (3) This is approved of by the Planning Board during site plan review.
- C. During site plan review, the Planning Board may require interconnection of adjacent parking lots and shared parking lots or incorporation of traffic calming measures including but not limited to pavement marking or textured crosswalks to improve safety and accessibility.
- D. Good site distances shall be maintained. Road drainage shall ensure that surface drainage flow is not impeded and that there will be no flow onto existing roads. Any access permits necessary from the County of Essex, Town of Moriah or State of New York as a result of access to a State, Town or County Highway shall be obtained by the applicant prior to issuance of a building permit, in addition to compliance with the terms of this section.
- E. Necessary traffic signalization and other safety controls, devices and facilities shall be given proper consideration and be duly provided wherever appropriate or warranted.
- F. Access should be restricted to discrete points of entry and exit and shall not be along the entire road frontage of the project.
- G. Snow removal, if applicable, shall be provided on the site so as to avoid obstructing drivers vision, protect landscaping elements and avoid posing problems for adjoining properties.
- H. All roads shall be planned and installed to logically relate to the existing soils, topography and vegetation. For these purposes, areas with steep slopes, shallow soils, soils with the water table at or near the surface, and soils that are highly susceptible to erosion or slippage shall generally be avoided.
- I. Adequate erosion control and drainage shall be provided for all roads, and especially those constructed on steep slopes. Clearing and grading of roads in wooded areas shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide utility installation.
- J. All cleared banks, expose borrow areas, and cut and fill slopes, including ditch banks, shall be revegetated in a manners suited to site conditions.
- K. Ditch bottoms shall be constructed and maintained to minimize soil erosion during periods of design flow by means of revegetation, sodding, mulching, netting, stone paving, rip- rap, and other materials or combination s of these, depending on hydraulics and soil properties.
- L. Road and private drive grade shall not exceed a twelve percent (12%) average grade over any 150-foot length, and shall not exceed fifteen percent (15%) over any length.

- M. Road maintenance procedures shall minimize the use of salt and deicing compounds for keeping surfaces free of ice and snow. Lightly salted sand is a desired alternative. Under no circumstances shall any deicing compound be used to keep culverts free of ice or snow.

5.11 Water Supply

- A. Any drilled, point-driven or dug well shall comply with the standards of the New York State Department of Health.

5.12 Emergency Access

- A. All proposed structures shall be readily accessible for emergency vehicles, including police, ambulance and fire protection.

5.13 Impact on Municipal Services

- A. For projects that require site plan review, the Planning Board shall take into account the ability of the municipality to provide the services and facilities that will be required by the use or project under consideration, and guide development in a manner that reflects the physical capacity of the service system or facility and financial capacity of the municipality to respond to additional requirements generated by the use or project.

5.14 Shoreline Protection

- A. All construction involving any shoreline shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased run-off of ground and surface water into the waterway and to remove only that vegetation which is necessary to the accomplishment of the project.
- B. Any boat pump-out or other connection to provide for the accommodations of sanitary wastes shall be connected to an adequate and approved sewage disposal system whether a public system or an individual on-site system.
- C. Any storage of petroleum products, or petroleum products use facilities (whether a marina, boat service-facility or other use) shall meet all design, construction and maintenance requirements for fuel tanks and petroleum storage from NYS DEC regarding such uses. For new projects under review by the Planning Board, site plans and structural designs shall ensure that leaks shall be prevented and that any leak, rupture of or spill will be contained and not be introduced into or affect the adjacent waterway.
- D. Any paved or otherwise improved parkway, loading or service area within 100 feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or soil siltation into the waterway.
- E. No boat docks or dockage area shall extend closer than 10 feet to any adjoining property line. The property line will be extended into any body of water as measured perpendicular to the shoreline at the corner of the property line or extended along the course it runs on the land, whichever results in greater setback.
- F. Adequate safety and traffic control devices shall be provided to ensure controlled safe ingress and egress of boats, for a distance of 200 feet or a distance to be determined by the Planning Board.

- G. Public access within the setback from the shoreline shall be encouraged, except where such access would present a hazard to public safety.

5.15 Multiple Family Dwellings

- A. In the case of a multiple family dwelling, the needs of residents for adequate useable open space for play areas and informal recreation shall be considered during the site plan review by the Planning Board.

5.16 Historical Property

- A. The Village of Port Henry encourages repair or alteration of historic structures while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.
- B. The following Standards for Rehabilitation established by the United States Secretary of the Interior shall be met by any commercial project involving such a historical structure:
 - (1) "Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 - (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of the building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.
 - (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired."

- C. The above Standards for Rehabilitation are encouraged for residential uses and should be used as guidelines for any residential project involving adaptive reuse of a historical structure.

5.17 Home Occupations, Minor and Major

A. General Standards for Minor and Major Home Occupations

- (1) No home-based business shall generate significantly greater traffic volumes or increased traffic hazards than would normally be expected in a residential district.
- (2) The home-based business must be clearly incidental and subordinate to the residential use.
- (3) The home-based business shall be allowed to be conducted within the dwelling unit or accessory structure.
- (4) The residential character of the single-family dwelling or accessory building and the lot shall not be altered to accommodate a home-based business.
- (5) The equipment used by the home-based business and the operation of the home-based business shall:
 - a. Not create any vibration, heat, glare, dust, odor, or smoke discernible at the property lines;
 - b. Not generate noise exceeding 55 decibels at the property line from 8:00 A.M. to 6:00 P.M.;
 - c. Not generate any noise discernible by the human ear at the property lines from 6:00 P.M. to 8:00 A.M.;
 - d. Not create electrical, magnetic or other interference off the premises; and
 - e. Not consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.
- (6) There shall be no use or storage of hazardous materials in excess of the quantities permitted in a residential structure.
- (7) All lighting, noise, sign and parking requirements of this law shall be met.
- (8) There shall be no heavy earth moving equipment, tractor trailers, or other similar specialized vehicles upon the property utilized for the home occupation.

- B. For Major Home Occupations, the Planning Board may specify conditions site plan approval conditions to ensure that the residential nature of the neighborhood is maintained including, but not limited to hours of operation. Only the person or persons who occupy the dwelling and four (4) additional persons may be employed by the high impact home occupation at any one time.

- C. Minor Home Occupations may have one sign not exceeding two square feet in area. Only the person or persons who occupy the dwelling and two (2) additional persons may be employed by the low impact home occupation at any one time.

5.18 Non-Residential Structure Design Standards

- A. Purpose. The purpose of this section is to ensure that large-scale development is designed to fit harmoniously into the historic character of the village. The goal is not to recreate historic buildings, but rather to encourage development of new buildings that complement rather than overwhelm or change their neighborhood.
- B. Applicability. The provisions of this section apply when there is construction, replacement or significant renovation of commercial buildings for uses that require site plan review site plan (SP) review as per Table 1. This section does not apply to one- and two-family residences, municipal facilities or uses which are permitted (P) as per Table 1. All building footprint sizes, height and setbacks as per Section 3.4 shall be met for all commercial structures.
- C. Waiver for Structures in Downtown Commercial District. The provisions of this section may be waived or modified by the Planning Board for projects located within the downtown commercial district to allow for new development to be consistent with and emulate the historic pattern of development found there. Multi-story, brick, zero lot-line structures are the most appropriate building type within the downtown area.
- D. Building Design. Buildings shall employ varying setbacks, heights, roof treatments, window openings and other structural or decorative elements to reduce the apparent size and scale of the building.
 - (1) In order to minimize the apparent scale of buildings that have more than 40' in width along Main Street, facades should be broken by periodic setbacks, façade breaks, and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas, window bays, separate entrances and entry treatments, or the use of sections that may project or be recessed may also be used.
 - (2) Roof shapes, slopes and cornices shall be consistent with the prevalent types in the area. In the Transition District, pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing buildings or otherwise establish a particular aesthetic objective. Flat roofs that emulate traditional buildings within the Downtown Commercial District are acceptable.
 - (3) Buildings should maintain the rhythm of building spacing along the street and shall have building scale, facades, and windows similar with traditional types within the district.
 - (4) Materials, textures, and colors should be similar, with natural and traditional building materials preferred to complement the districts architecture. The use of high intensity, metallic or fluorescent colors, or black on facades shall be prohibited.
 - (5) Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) should complement traditional examples in the area.
 - (6) Standard corporate and trademark colors may be permitted on signage; but shall be prohibited on buildings. All businesses, including commercial franchise or formula-based businesses shall meet all design standards of this section.
 - (7) There shall be no blank walls facing the street.
 - (8) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than 50% of their horizontal length.
 - (9) Public entryways shall be clearly defined and highly visible on the building's exterior design, and shall be emphasized by on-site traffic flow patterns.
- E. Building Style. The building's architecture shall reflect the traditional building forms exemplified by the historic commercial, public and other monumental buildings in the village.

Free-standing accessory structures (ATMs, gas pump canopies, sheds, etc.) shall be treated as architectural elements and meet the same design standards as the principal structure(s) on the site.

- F. Lighting. The applicant shall demonstrate to the Planning Board that the proposed lighting is appropriate for the intended use. The Planning Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination.
- (1) All lighting fixtures shall be fully shielded and directed downwards to prevent glare and light pollution. No light shall be created that causes glare onto streets, sidewalks, or adjacent properties. Light levels at property lines shall not exceed 0.1 foot-candles.
 - (2) The maximum height of freestanding lights shall not exceed 20 feet.
 - (3) When the activity is not in use, lighting shall be turned down to security level or turned off.
 - (4) Where lights along property lines will be visible to adjacent residences, the lights shall be appropriately shielded.
- G. Landscaping. Landscaping shall be considered an integral part of the approved project.
- (1) Use of native plant materials is preferred. A minimum of 30% of the building's total foundation, including a minimum of 50% along the building's front facade, shall be planted with landscaping.
 - (2) Street trees shall be planted 1 for every 30 feet of road frontage along all public streets within a green buffer strip of appropriate size to ensure tree growth.
 - (3) Parking lots shall have landscaping around the edges, especially along Main Street, to screen and soften their appearance. Parking lots over 30 spaces shall be segmented by use of curbed landscape islands. Each landscaped island shall be a minimum of 360 square feet in landscaped area.
 - (4) The applicant/property owner shall replace within 30 days any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant/property owner can demonstrate to the satisfaction of the codes enforcement officer that site conditions require an alternative species of comparable size.
- H. Parking. Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians.
- (1) Parking areas shall not be located between the front facade of the principal building and the primary abutting street.
 - (2) Provision shall be made for snow storage and/or removal. Snow storage areas shall be identified on the site plan.
- I. Screening.
- (1) Ground- and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from ground level view with materials identical to those on the building exterior.
 - (2) All trash collection areas that are not within an enclosed building shall be screened or recessed so that they are not visible and they shall be located at least 20 feet from any

lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.

- (3) Loading docks shall be screened by walls matching the building's exterior or fully opaque landscaping.
- (4) Rooftop equipment shall be screened by parapets, upper stories or exterior walls from view from public streets within 1,000 feet.
- (S) Gates and fencing may be used for security and access, but not for screening. Chain link, wire mesh or wooden stockade-style fencing is not acceptable. Use of stonewalls, similar to the historic walls found throughout the village, is preferred.

J. Pedestrian and Bicycle Facilities. Pedestrians shall have the ability to walk safely from adjacent public streets and sidewalks to the building's principal entrance. Pedestrian walkways shall be clearly defined, landscaped and distinguishable from driving surfaces. Sidewalks shall be constructed of such dimension to meet Federal Americans with Disability Act requirements.

- (1) Sidewalks shall be provided to connect the building entrance, parking lot, if any, and public sidewalks. Sidewalks shall be provided along all sides of the lot that abut a public street, if no sidewalks currently exist. The Planning Board may require repair or replacement of existing sidewalks if they are in poor condition.
- (2) New walkways shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than 50 percent of the length of the walkway.
- (3) All internal pedestrian walkways and crosswalks shall be distinguished from driving surfaces through use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
- (4) Within the Downtown Commercial District, a bicycle rack shall be included at the rate of 1 bicycle rack for every 30 vehicle parking spaces.

K. Outdoor Sales. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access.

- (1) Permanent outdoor sales areas shall be defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building.
- (2) If outdoor sales areas are to be covered, then the covering shall be similar in materials and colors to those that are predominately used on the building facade.
- (3) Outdoor sales areas shall be considered as part of the building footprint.
- (4) Outdoor sales areas must be clearly depicted on the site plan and separated from motor vehicle routes by a physical barrier and a minimum of 10 feet.
- (5) Outdoor storage of products for sale in an area where customers are not permitted is prohibited.

Article VI Development Review (Site Plan Review)

6.1 Relation to Development Review Law.

The Development Review Law (Local Law #1 of 2007) established a site plan review process in the Village of Port Henry. That law has been rescinded as a separate local law, but its provisions are incorporated into and superseded with this Zoning Law.

6.2 Authorization of Planning Board.

The Planning Board is hereby authorized to review and approve, approve with qualifications or modifications, or disapprove site plans for new land use activities within the Village as described in and in accordance with the standards and procedures set forth in this Zoning law. The Village Board of Trustees shall serve as the Planning Board until such time as a Planning Board is appointed as per Article IX of this Zoning Law.

6.3 Applicability of Site Plan Review.

- A. All new land use activities identified with (SP) on Table 1 shall require site plan review and approval except for the uses listed in paragraph C, below. Uses that do not require site plan review shall meet all other requirements and standards of this zoning law prior to receiving a building permit issued by the Code Enforcement Officer.
- B. Residential structures converted to commercial use, except for home occupations shall require site plan review.
- C. A site plan review and approval is not required for:
 - (1) Construction of, renovation of, or additions to a one- or two-family dwelling and ordinary residential accessory structures and uses provided that:
 - (a) Dimension and setback requirements of Section 3.4 shall be met;
 - (b) No new public or private road shall be created;
 - (c) No changes shall be made to the facade of a historic structure that can be seen from a street within the Downtown Commercial District;
 - (d) The home or structure is located on property that does not contain any Critical Environmental Areas as defined by the Adirondack Park Agency or as may be defined by the Village of Port Henry Comprehensive Plan.
 - (2) Minor Home Occupations.
 - (3) Fences up to 4 ½ feet in height when placed in front of a building. Placement of fences on side and rear lines of any lot are exempt from site plan review.
 - (4) Ordinary repair and maintenance (painting, residing, roofing, etc.) and interior alterations provided there is no change of use.
 - (5) Non-structural agricultural or gardening uses.
 - (6) Temporary agricultural produce stands.
 - (7) Garage sales not exceeding 3 days in length not more than 4 times in a calendar year.

6.4 Preliminary Sketch Plan Review

- A. Prior to submission of an application for site plan review, a Preliminary Sketch Plan Review conference with the Planning Board is required during the conceptual design process to reduce the review time of formal consideration of proposed site plans where possible. The sketch plan review conference shall take place at a regularly scheduled and noticed Planning Board meeting, and is subject to all New York State rules on open meetings. The first meeting between the applicant and the Planning Board shall consist of an informal conference to review the conceptual site design (sketch) plan. The Planning Board's preliminary consultation shall review the basic concept of the proposal to identify areas of concern or resolve problems with meeting requirements which might occur during formal consideration, to determine what detailed application materials will be required, and to detail the site plan review process to be followed. The Planning Board may, if appropriate, determine that the project meets the definition of a minor project and initiate the Minor Site Plan Review Process detailed in Section 6.6.
- B. The applicant shall provide the Planning Board with sufficient data regarding the proposed development to clearly illustrate the intention of the applicant. This shall include a map showing the important existing natural and man-made features on and adjacent to the site and a sketch plan showing the major features of the proposed development. If necessary, the site may also be visited.
- C. At the pre-application conference, the Planning Board shall determine if the project is a minor or major project. The Planning Board shall make its determination based upon review of the project's scope and the basic land use and site design concept, as shown by a sketch plan drawn to scale and accompanying statements provided by the applicant, and describing, at a reasonable level of detail, what is proposed.

At the pre-application conference, the Planning Board shall take one of three actions:

- (1) Determine that the project is a minor project. Applications that are deemed major site plans are not eligible to be reviewed through a minor site plan process. If a project is deemed a minor site plan, the Planning Board shall follow Section 6.6. The Planning Board shall also determine at the time of the pre-application conference if the minor site plan application requires an environmental review pursuant to SEQR Part 617.
- (2) Determine that the project is a major project and that it does require full review under this Article, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of site plan submission requirements in accordance with Article VI of this Zoning Law.
- (3) Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.

6.5 Application Requirements

- A. Applications shall consist of the following, unless specifically waived by the Planning Board at the sketch plan phase:
 - (1) Two copies of a site plan drawn to scale, to include the following (the sketch plan may be deemed to be the final plan at the Planning Board's discretion):
 - (a) Location map showing boundaries and dimensions of the parcel or tract of land involved, identification of contiguous properties, any easements or public rights-of-ways and all features within 500 feet of the site.

- (b) Existing features of the site including existing land and water areas, existing buildings and any existing accessory structures, existing water supply systems and sewage systems located either on the parcel or on an immediately adjacent parcel and existing surface drainage characteristics.
- (c) Delineation of proposed building locations and arrangement of buildings or installations on the site, including parking areas, circulation patterns and means of ingress and egress.
- (d) Sketch of proposed building or structure including exterior dimensions and elevations of front, side and rear view clearly showing exterior finish materials to be used and facade details.
- (e) Location and design of outdoor lighting facilities.
- (f) Map indicating existing and proposed topography at a contour interval of not more than 2 feet where the slope is 10 percent or greater and not more than 5 feet where the slope is less than 10 percent, and of the existing and proposed elevations.

(2) Accompanying data, to include the following:

- (a) Application form, and fee as determined by the Village Board.
- (b) Name and address of applicant and any licensed professional consultants.
- (c) Copy of deed to the property in question, if requested by the Planning Board.
- (d) Authorization of owner if applicant is not the owner of the property in question.
- (e) Description of materials and methods of construction for the exterior of the project.
- (f) Results of any required on-site investigations including soil rests, borings and percolation tests, if applicable.
- (g) Record of the application and approval status of all required state and county permits, if any.
- (h) Lighting plans shall be submitted for all proposed exterior lighting drawn at a scale of 1-inch=20-feet and shall include the location and type of lighting equipment, the manufacturer's specification sheets and point-by-point calculated illuminance values noted on a 10-foot grid.
- (g) Such additional information as the Planning Board may reasonably require to assess the proposed project.

B. Waiver. The Planning Board may find that some submission requirements or standards of this Section are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application. When a project proposes adaptive reuse of existing buildings, the Planning Board may waive any submittal requirements of Section 6.5 for the site plans. In such cases, the Planning Board may, in its sole discretion, waive any requirements for the approval, approval with modifications, or disapproval of proposed uses submitted provided such a waiver does not prevent or circumvent the purposes and intent of any Village of Port Henry law, regulation, or the Comprehensive Plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the special use permit application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board.

6.6 Minor Site Plan Review

- A. The Planning Board shall, at the first regularly scheduled meeting held after determining that an application is a minor site plan begin the review process. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating application deficiencies. No minor site plan application shall be deemed complete until the application form, fee as may be set by the Village Board, and sketch and site plan information as may be required by the Planning Board has been accepted by the Planning Board, and if SEQR is required, either a negative declaration or acceptance of a draft Generic Environmental Impact Statement.
- B. Once a complete application has been received, the Planning Board shall conduct its abbreviated review and render a decision in one meeting unless an extended time frame is mutually agreed upon. No public hearing shall be required. If the application is deemed complete, the Planning Board shall conduct its review and render a decision on the minor site plan at the first regularly scheduled meeting held after submission of the minor site plan application to the Planning Board. The Planning Board's action shall be in the form of a resolution stating whether the minor site plan is approved, disapproved or approved conditionally with modifications. Any modification required by the Planning Board shall be considered a condition for issuance of a building permit. If the minor site plan is disapproved, the Planning Board's resolution will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.
 - (1) Approval. Upon approval of the minor site plan and payment by the applicant of all fees due to the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file a copy of the approved resolution approving the minor site plan with the Code Enforcement Officer. A copy of the written statement of approval shall be mailed to the applicant. Upon approval of the minor site plan, the applicant shall be eligible for applying for a building permit.
 - (2) Approval with Modifications. The Planning Board may approve the minor site plan and require that specific modifications or conditions be made. A copy of the resolution of approval containing the modifications required by the Planning Board shall be mailed to the applicant and filed with the Village Clerk and the Code Enforcement Officer. The Code Enforcement Officer shall not issue a building permit until the modified minor site plan has been reviewed and certified by the Code Enforcement Officer that the plan reflects modifications as required by the Planning Board.
 - (3) Disapproval. The Planning Board shall make a resolution if its decision is to disapprove the application. The resolution shall set forth the reasons for the Planning Board's decision not to approve the application. Upon disapproval of the site plan, the Planning Board shall, within five (5) business days, file the resolution with the Village Clerk and Code Enforcement Officer. No building permit shall be issued when an abbreviated site plan has been disapproved.

6.7 Planning Board Review and Decision

- A. An application for a major project site plan approval shall be made in writing to the Planning Board and shall be accompanied by information drawn from the items from Section 6.5 of

this Zoning Law as determined necessary by the Planning Board at the sketch plan conference.

- B. The Planning Board shall meet all environmental review requirements pursuant to NYCRR Part 617 (SEQRA) prior to approval of any site plan.
- C. The Planning Board's review shall include, as appropriate to the application, the following:
 - (1) Consistency with the general review criteria of Article 5 of this Zoning Law.
 - (2) Adequacy, arrangement, and grade of vehicular traffic access and circulation.
 - (3) Location, arrangements, appearance and sufficiency of off-street parking and loading.
 - (4) Adequacy of stormwater and drainage facilities.
 - (5) Adequacy of water supply and sewage disposal facilities.
 - (6) Adequacy of landscaping.
 - (7) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (8) The Planning Board may review such site design features as general design, arrangement, location, texture, material, color, facade, openings and bays, cornice heights, building height and scale of the proposed land use activity or structure. The need for the proposed use in the proposed location, its consistency with existing character of nearby uses and structures, the possible detrimental effects on or obstruction of views of nearby buildings and the effect on the historic character of the area will also be considered.
 - (9) In the case of a commercial facility or any facility designed for use by the general public, such as a marina, beach club or campground, adequate access, parking, sanitary facilities, trash disposal and similar amenities shall be provided for users of such a project to protect the health, safety and general welfare of the surrounding neighborhood.
 - (10) The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings.
- D. Within sixty-two (62) days of determination that an application is complete, the Planning Board shall render a decision. In the event that a public hearing is held pursuant to Section 6.9, the Planning Board shall render a decision within sixty-two (62) days of the public hearing. If no decision is made with that sixty-two (62) day period, the site plan shall be considered approved. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and Planning Board.
 - (1) Approval. Upon approval of the site plan and payment of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall file it with a written statement of approval within five business days with the Village clerk and forward such copy to the Code Enforcement Officer. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
 - (2) Approval with Modifications. The Planning Board may conditionally approve the 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 building or other permits by the Village. A copy of a written statement containing the modifications required by the conditional approval shall be mailed to the applicant. 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 Village, the Planning Board shall endorse its approval on a copy of the site plan and shall file it within five business days with the Village clerk and a written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

(3) Disapproval. Upon disapproval of the site plan, the Planning Board shall file a written statement describing the Planning Board's reasons for disapproval with the Village clerk within five business days and a copy mailed to the applicant. In addition, the Planning Board shall send a copy to the Code Enforcement Officer and the Code Enforcement Officer shall deny a building permit to the applicant.

B. The Planning Board's action shall be in the form of a written statement mailed to the applicant stating whether or not the plan is approved, approved with conditions or modifications, or a public hearing is to be scheduled. Decisions of the Planning Board may include reasonable conditions or modifications to further the ends of this Zoning Law. In no case shall an application be disapproved without a public hearing. If a public hearing is held, the Planning Board shall approve, approve with conditions or modifications or disapprove the application within 62 days of the date of the close of the hearing. If an application is disapproved the reasons therefore shall be clearly stated.

6.8 Consultant and Professional Review

A. The Planning Board may consult with such local and county officials, and private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the Department of Transportation, the Adirondack Park Agency, the Department of Environmental Conservation and the Department of Health as it deems necessary in connection with its review of any development plan.

6.9 Public Hearing Notice and Conduct

- A. In determining whether or not in its discretion to hold a public hearing, the Planning Board shall consider the size and complexity of the proposed activity, the level of public interest in the application and the possibility of disapproval. The Planning Board may also waive a public hearing when an application proposes an adaptive reuse of an existing building or is a minor project.
- B. Any public hearing held under this Zoning Law shall be advertised by a notice of public hearing, to be published once in the official newspaper of the Village at least 10 days prior to the date of the hearing, and notices sent to any adjacent municipality. In addition, at least 5 days prior to the date of the hearing, notice shall be mailed to the applicant, and all owners of property within 500 feet of the exterior boundary of the property for which the application is made, as may be determined by the latest assessment records of the Village.
- C. Any hearing may be recessed by the Planning Board in order to obtain additional information or to serve further notice upon other property owners, or to persons it decides

may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. No further notice or publication will be necessary.

6.10 Extension of Time Period

- A. The time periods within which Planning Board actions are required by this Article are the maximum times allowable. The Planning Board shall act as quickly as possible in reviewing and approving applications in order to minimize delays to applicants, and it is the expectation of the Planning Board that a public hearing will seldom be required and that most applications will be expeditiously reviewed and approved (or approved with conditions or modifications) in a shorter time period than 30 days. Under certain circumstances, however, the maximum allowable time period within which the Planning Board must render its decision upon a completed application may be extended by the Planning Board for an additional period of 15 days or longer as otherwise mutually agreed upon by the Board and the applicant.

6.11 Required Referral

- A. Where applicable, the Planning Board shall refer the plan to the Adirondack Park Agency and the planning agency for Essex County for advisory review and report in accordance with Section 239-m of the General Municipal Law and the Adirondack Park Agency, if required. Any proposed site plan affecting real property within 500 feet of the boundary of the Village of Port Henry, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned lands on which a public building or institution is situated shall be referred to the Essex County Planning Board.

6.12 Appeal of Planning Board Decision

- A. Any person aggrieved by a site plan decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision in the Office of the Village Clerk.

6.13 Required Fee

- A. An application for development plan review shall be accompanied by a fee in an amount which shall be established from time to time by the Village Board and posted in the Village Office.

6.14 Reimbursement of Costs

- A. In addition to fees and costs chargeable pursuant to Section 6 17. 17 of the Environmental Quality Review Act, costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed development plan shall be charged to the applicant.

Article VII Nonconforming Uses and Structures

- A. The provisions of this Article shall apply to all nonconforming uses and structures existing on the effective date of this Zoning Law, and to a land use or structure that becomes nonconforming by reason of any future amendment to this Law. Any appeals from this provision shall be dealt with in accord with the procedures provided in Article VIII.
- B. Continuance. Any nonconforming use or structure may be continued indefinitely except as hereinafter provided in this Article.
- C. Cessation. Any nonconforming use which is discontinued for a period of more than two years shall thereafter be replaced only by a permitted use.
- D. Change to Conforming Use or Structure. A nonconforming use or structure may be changed to a conforming use or structure at any time, but shall not thereafter be changed back to a nonconforming use or structure.
- E. Change to Another Nonconforming Use. A nonconforming use may not be changed to another nonconforming use.
- F. Maintenance and Repairs. Customary maintenance of a building or other structure containing a nonconforming use is permitted, including necessary structural repairs and minor alterations, subject to the provisions of sub-section G, below.
- G. Buildings and structures which are only nonconforming in dimension may be altered, moved, reconstructed, or enlarged provided that such change does not extend beyond that part of the existing structure which causes the nonconformity or increase the degree of, or create any new, nonconforming dimensions in such building, and does not violate any other provisions of this Law.
- H. Reduction in Lot Area. No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this Law.
- I. Damage of Nonconforming Use or Bulk. A building housing a nonconforming use or which is nonconforming in terms of dimension or set back, which sustains damage or destruction by any cause, may be repaired or reconstructed, so long as the nonconformity is not increased or expanded.
- J. Existing Undersized Lots. Any lot held in single and separate ownership, prior to the adoption of this Law, whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Law, may be considered as complying with such minimum lot requirements, and no variance shall be required to conduct a land use activity, provided that:
 - (1) Such lot does not adjoin other lands held by the same owner which lands may be aggregated to create a conforming lot; and
 - (2) All other dimension and yard requirements are complied with.

- K. Approved Subdivisions. Any lot in a subdivision whose plat has been approved by the Planning Board and properly filed prior to the passage of this Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Law shall be considered as complying with such minimum lot requirements.

Article VIII Zoning Board of Appeals

8.1 Membership.

- A. A Zoning Board of Appeals is hereby established in accordance with Section 7-712 of the Village Law. It shall consist of three members and one alternate, 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 7-712 (2 – 9) of the Village Law. A member of the Board of Appeals shall not at the same time be a member of the Village Board of Trustees.
- B. If a vacancy shall occur, the Village Board shall appoint the new member for the remainder of the unexpired term.
- C. The Village Board shall designate its chairperson and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson.
- D. The Village Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing pursuant to 7-712 (9).
- E. The Village Board shall establish an alternate zoning board of appeals member for purpose of substituting for a member in the event such member is unable to participate due to a conflict of interest pursuant to 7-712 (11).

8.2 Powers

- A. The Zoning Board of Appeals shall have the duties, rights, powers and functions conferred upon it by 7-712 - b of the Village Law.

8.3 Conduct of Business

- A. The Zoning Board of Appeals shall conduct its business pursuant to Village Law 7-712 -a.
- B. 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 New York State Public Officers Law. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The Zoning Board of Appeals may employ such clerical or other staff as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Village Board for such purposes.
- C. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.

- D. Assistance to Board of Appeals. Such board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. Further, the Zoning Board of Appeals shall have the authority to call upon any professional to assist in its review of applications. Expense for such professional shall be borne by the applicant.
- E. The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this Zoning Law.
- F. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine.
- G. Time of appeal. An appeal shall be made within sixty days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer. All notice of appeals shall be filed with such officer and with the Board of Appeals and shall specify the grounds for and the relief sought on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Zoning Law involved and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official. The Code Enforcement Officer shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- H. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative official, 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 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.
- I. Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it after receipt of a complete application. The Zoning Board of Appeals shall give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal 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.
- J. Notice to County Planning Board. At least five days before such hearing, the Board of Appeals shall mail notices to the County Planning Board as required by section two hundred thirty-nine-m of the general municipal law. This notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law. No action shall be taken on variances referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed variance, unless the County and Village agree to an extension beyond the 30-day requirements for the County Planning Board's review. A majority-plus-one vote shall be required to approve any variance which

receives a recommendation of disapproval or a recommendation of modification from the County Planning Board if the referring body chooses to act contrary.

- K. Time of decision on appeal. The Board of Appeals shall decide upon the appeal within sixty-two days after the close of the 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.
- L. Voting requirements.
 - (1) Decision of the Board. Every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals 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 section two hundred thirty-nine-m of the general municipal law shall apply.
 - (2) 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 Code Enforcement Officer within the time allowed, 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 subdivision twelve of New York State Law 267-a.
- M. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- N. Compliance with state environmental quality review act (SEQRA). The Board of Appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and it's implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.
- O. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

8.4 Permitted action by Board of Appeals.

- A. Use variances.
 - (1) The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or Zoning Law, shall have the power to grant use variances, as defined herein.
 - (2) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unreasonable hardship. In order to prove such unreasonable 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,

- (a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent and unbiased financial evidence;
 - (b) 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;
 - (c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) that the alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unreasonable 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.
- B. Area variances.
- (1) 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.
- (2) 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 Board shall also consider:
- (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) whether the requested area variance is substantial;
 - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (3) The 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.
- C. Imposition of Conditions. The Board of Appeals shall, in the granting of both use variances and area variances, 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 ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- D. Appeals. The 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 enforcement officer, and to that end, shall have all the

powers of the enforcement officer from whose order, requirement, decision, interpretation or determination the appeal is taken. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

8.5 Court Review of Board Decisions

- A. Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and. Such proceeding shall be instituted within thirty days after the filing of a decision of the Board in the Village Clerk's office.
- B. Expiration of appeal decision. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building permit within 12 months of the date of such decision.
- C. Grant of Variance. The grant of a variance shall serve as authorization for the Code Enforcement Officer to issue a project permit, provided that the project complies with all applicable provisions of this Zoning Law and other applicable regulations.

Article IX Planning Board

9.1 Appointment of Members and Terms.

- A. The Planning Board shall consist of five (5) members appointed by the Village Board. Members now holding office for terms that do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be seven (7) years. The Village Board of Trustees may serve as the Planning Board until such time as a Planning Board is appointed.
- B. Successor Board members shall be appointed for the term of seven (7) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Village Board to fulfill the remaining unexpired term of that member.
- C. The Village Board may appoint at least one (1) person as an Alternate Member of the Planning Board for a term of five (5) calendar years. All provisions of this Zoning Law relating to planning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members. The Chairperson of the Planning Board may designate the alternate member to substitute for a member who is unable to participate in deliberations and decisions of the Planning Board due to conflict of interest on an application or matter before the Board. When so designated: the alternate member shall possess all the powers and responsibilities of such member of the board; shall be allowed to participate in discussions of the proceedings; and shall be allowed to vote. Such designation of the Alternate Member shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. At all other times, an Alternate Member may participate in discussions of the proceedings, but may not vote except due to the disqualification of a regular member and a designation of substitution by the Chairperson.

9.2 Board Composition.

- A. All members of the Planning Board shall be residents of the Village of Port Henry. Unless the Village Board is serving as the planning board, no person who is a current member of the Village Board shall be eligible for membership on the Planning Board.
- B. Vacancies. Permanent vacancies on the Planning Board shall be filled by the Village Board.
- C. Mandatory training. All members and alternate members of the Planning Board shall comply with the requirements of New York State Village Law Section 718 that require all planning board members and alternate members to complete a minimum of four (4) hours of training each year. No Planning Board member shall be eligible for reappointment if they have not completed this training as required.
- D. Removal.
 - (1) The Village Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by this Zoning Law or other law established by the Village Board. Cause for removal of a member may include one (1) or more of the following:
 - (a) Any undisclosed or unlawful conflict of interest.
 - (b) Failure to attend 33% of the meetings during the course of one (1) calendar year.
 - (c) Failure to attend four (4) consecutive meetings.
 - (d) Failure to complete their mandatory training requirements.
 - (e) No member who has been removed for cause shall be reappointed.
- E. Chairperson and Vice Chairperson. The Village Board shall appoint one of the Planning Board members as Chairperson, to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Planning Board members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may, from time to time, be provided by the rules of the Board. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. The chairperson, or acting chairperson, may administer oaths to applicants, witnesses, or others appearing before the Board and may compel the attendance of witnesses.

9.3 Voting Procedures.

- A. Quorum. No business shall be transacted by the Board without three (3) members of the Board being present.
- B. Voting. Every motion or resolution of the Planning Board shall require for its adoption, the affirmative vote of a majority of all the members of the Planning Board, not just those present. The concurring vote of at least three (3) members shall be necessary for any action by the Board, pursuant to New York State Village Law Section 7-718. Where an action is the subject of a referral to the Essex County Planning Board, and in the event that the Essex County Planning Board recommends disapproval of the application within the thirty (30) day time period allowed them, the Planning Board shall not act contrary to such

recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after taking final action on an application, the Planning Board shall file a report of the final action it has taken with the Clinton County Planning Board.

- C. Assistance to Planning Board. The Board shall have the authority to call upon any department, agency or employee of the Village for assistance as the Board deems necessary. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant.

9.4 Decisions.

- A. Decisions. Every decision of the Planning Board shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.
- B. Final decision. All deliberations and decisions of the Planning Board shall occur at a meeting open to the public and shall state any special circumstances or conditions to be imposed. Decisions of the Planning Board shall be final upon adoption of a resolution of Planning Board by a majority of the members of the Planning Board and the filing of the resolution with the office of the Village Clerk.
- C. Notification of decision. Within five (5) business days following the final decision on any action before the Planning Board, a notice of such decision shall be mailed to the applicant and such decision shall be filed in the office of the Village Clerk.
- D. Failure to Act. All time periods prescribed for Planning Board action are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of applications. Such time periods may be extended only by mutual consent of the applicant and the Planning Board. Time frames detailed in this law shall start upon the Planning Board deeming the application complete. If the Planning Board fails to take action on a subdivision preliminary or final plat, a special use permit, or a site plan within the time prescribed after completion of all requirements under the state environmental quality review act, or within any extended period as may have been established by the mutual consent of the applicant and the Planning Board, such application shall be deemed granted approval. Should the Planning Board fail to take action within the time prescribed, the Village Clerk shall issue a certificate stating the date of submission of the application and the date when such application was deemed complete by the Planning Board for review and proof of failure of the Planning Board to take action within the prescribed time. This certificate shall be sufficient in lieu of a written endorsement or other evidence of approval.

9.5 Conflicts.

No member of the Planning Board shall participate in the hearing or disposition of any matter in which he or she has an interest.

9.6 Appeals.

Any person or persons, jointly or severally aggrieved by any final decision of the Planning Board, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be instituted

within thirty (30) days after the filing of the decision of the Planning Board in the office of the Village Clerk.

Article X Enforcement

- A. Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this Zoning Law, or any conditions imposed by a permit or approval pursuant hereto, shall be guilty of an offense and subject to a fine of not more than \$250 or by penalty of \$250 to be recovered by the Village in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
- B. In case of any violation or threatened violation of any of the provisions of this Zoning Law or conditions imposed by a permit or approval pursuant hereto, in addition to other remedies herein provided, the Village, by action of the Village Board, may institute any appropriate action or proceeding to prevent such unlawful activity, to restrain, correct or abate such violation, or to prevent any illegal act, conduct, business or use in or about such premises.
- C. Any permit or approval granted under this Zoning Law which is based upon or is granted in reliance upon any material misrepresentations, or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Village under Paragraphs (A) and (B) of this sub-section.
- D. Inspection
 - (1) The Code Enforcement Officer is authorized to enter, inspect, and examine any building or premises with the consent of the landowner. If the landowner, tenant, or occupant does not provide such consent and the Code Enforcement Officer has probable cause to believe that a violation of this law is occurring, he is authorized to obtain an administrative search warrant to conduct such entry, inspection or examination.
- E. Procedure for Investigation of Violations
 - (1) Reporting and Investigation. Any person may report in writing a suspected violation to the Code Enforcement Officer. The Code Enforcement Officer shall record all suspected violations. Within a reasonable time thereafter Code Enforcement Officer shall investigate and determine whether a violation exists. The investigation shall include a visit to the site of the alleged violation. To the maximum extent practicable the Code Enforcement Officer shall document the violation through photographs and other proof. The Code Enforcement Officer may also determine that a violation exists based on his or her own investigation and without a prior complaint. In that event the Code Enforcement Officer shall record and investigate the suspected violation as provided above.
- F. Notice of Violation. Within a reasonable time of determining whether a violation exists the Code Enforcement Officer shall serve the landowner and any other responsible party, or both, with a "Notice of and Demand to Remedy Violation." The Notice shall be served on the landowner and any other responsible party by certified mail return receipt requested or by

personal delivery. If service is not possible under either method, the Code Enforcement Officer may use the best possible alternative method of service provided for under the Civil Practice Law and Rules of the State of New York that insures notice to the alleged violator(s). The Notice shall set forth the alleged violation in reasonable detail and cite to the applicable part of the Zoning Law. The Notice shall also state the corrective action sought and the time by which the corrective action must happen. A reasonable period shall be provided to correct a violation, which period shall be determined by the circumstances of the violation and the degree to which the violation constitutes a danger to public health, safety and welfare.

- G. Justice Court; Appearance Tickets. If the alleged violator(s) fail to correct the violation within a reasonable time of the period provided for correction of the violation the Code Enforcement Officer shall then commence a proceeding in the local Justice Court. The Code Enforcement Officer shall commence the proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets. The Code Enforcement Officer shall also prepare a supporting deposition setting forth the details of the violation. The Code Enforcement Office may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that the Justice Court issue a criminal summons for service on the alleged violator(s). The Village Attorney shall represent the Code Enforcement Officer in the Justice Court. Notwithstanding the foregoing, the Code Enforcement Officer may simultaneously or besides the remedy provided herein refer the alleged violation to the Village Attorney for an injunction and the collection of civil fines as provided for in this section.
- H. Authorization to Issue Appearance Tickets. Code Enforcement Officer, and any appointed deputy, are hereby authorized to issue and serve an appearance tickets with respect to violations of the Village of Port Henry Zoning Law. An appearance ticket issued under authority of this Zoning Law shall be served personally.
- I. Abatement of Violations. The Board of Trustees, or the Code Officer with the permission of the Board of Trustees, may commence an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation hereunder. As part of such an action, such boards or officer may seek fines and civil penalties as provided for above.
- J. Private Actions to Enforce the Law: Upon the failure or refusal of the Village Board of Trustees to commence and enforce the Village of Port Henry Zoning Law for a period of ten days after written request by a resident taxpayer of the Village so to proceed, any three taxpayers of the Village residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as the Land Use Law/Code Officer or the Village Board is authorized to do.

Article XI Amendments

11.1 Authority.

The Village Board may, from time to time, upon its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this Law after public notice and hearing in each case.

11.2 Advisory Report by Planning Board.

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations on the proposed zoning change to the Village Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date or receipt of notice or such longer time as may have been agreed upon by it and the Village Board, the Village Board may act without any such report.

11.3 Referral to the County Planning Board.

Any proposed amendment affecting real property within 500 feet of the boundary of the Village of Port Henry, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned lands on which a public building or institution is situated shall be referred to the Essex County Planning Board before final action is taken pursuant to General Municipal Law Article 12-B, Sections 239-l and 239-m. No action shall be taken on proposals referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed amendment. A majority plus one vote of all Village Board members shall be required to pass any proposal which receives a recommendation of disapproval from the County Planning Board because of the referral, along with a resolution setting forth the reasons for such contrary action.

11.4 Public Hearing and Notice.

The Village Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- (1) By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Village not less than 10 days prior to the date of public hearing.
- (2) By giving written notice of hearing to any required municipal County, regional, State or Federal agency in the manner prescribed by law.
- (3) By giving adequate notice of the amendments purpose, including the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
- (4) Written notice of any proposed amendment affecting property lying within 500 feet of an adjacent municipality shall be notified in writing at least 10 days prior to the date of public hearing. Representatives or neighboring municipalities receiving notification of a

proposed amendment shall have the right to appear and be heard at the public hearing but shall not have the right to review by a court.

11.5 Local Protest.

If a protest against the proposed amendment is presented to the Village Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of land directly opposite and extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a majority plus one of the members of the Village Board including the mayor.

11.6 Adoption of Amendments.

The Village Board may adopt amendments to this Zoning Law by a simple majority vote of its full membership, except in the case of local protest or disapproval by the County Planning Board as noted in 11.3.

11.7 Publication and Posting.

Every amendment to the zoning law, including any map incorporated therein, adopted in accordance with this Law shall be entered in the minutes of the Village Board, a summary or abstract of the amendment published once in the official newspaper of the Village, and a copy of such amendment posted on the Village's official website, and in the Office of the Village Clerk.

Article XII Definitions

- A. Words used in the present tense include the future; the singular number includes the plural, and the plural number includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building." The term "occupied" or "used" as applied to any given building or land shall be construed to include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used or occupied." The word "shall" is mandatory and not optional.
- B. Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings herein indicated:

ACCESSORY APARTMENT — A self-contained dwelling unit, having its own exterior or interior entrance, which is subordinate to the principal residence but on the same lot, with the principal residence being occupied by the owner of the lot.

ACCESSORY FACILITY – A structure or use designed for the use of tenants, boarders, roomers, or guests of a non-residential principal use, such as eating and drinking places, dance and recreation halls, recreational and athletic fields, tennis and handball courts, boat rentals, swimming pools, bath houses, and locker rooms.

ACCESSORY STRUCTURE — A structure that is customarily incidental and subordinate to that of the principal building and which is attached thereto or is located on the same lot or premises. Accessory structures are not for the purpose of human habitation, and include tennis courts, satellite dish antennas, such buildings as garages, swimming pools, garden or tool sheds, barns, greenhouses and playhouses. The class of structure commonly referred to as a "mobile home" shall not be utilized as an accessory structure.

ACCESSORY USE – A use that is clearly and customarily incidental and subordinate to the principal use and is located on the same lot with principal use.

ADIRONDACK PARK - land lying within the area described in subdivision one of section 9-0101 of the environmental conservation law including any future amendments thereto.

AGRICULTURAL PROCESSING FACILITY — a facility no larger than 5000 square feet where animals are killed and processed into meat foods, or a facility where plants and plant products are processed into canned, frozen, or fresh food products.

AGRI- TOURISM — 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. Agri-tourism activities may be conducted in an accessory structure. Agri-tourism activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

AMUSEMENT ESTABLISHMENT – Establishment engaged in providing entertainment or recreational services for a fee.

AMUSEMENT ESTABLISHMENT, INDOOR — Amusement establishment that is wholly enclosed in a building, including but not restricted to: dance instruction studios, physical

fitness studios, swimming pools, tennis courts, theaters, billiards, game parlors, kiddy lands, and similar commercial recreation activities.

AMUSEMENT ESTABLISHMENT, OUTDOOR — Amusement establishment where a portion of the activity takes place outside a building, including but not restricted to: game farms, skating rinks, fishing and hunting preserves, skiing/snowshoeing/toboggan areas, snowmobile areas, golf courses, miniature golf, batting cages, driving range facilities, museum villages, swimming pools, beaches and similar outdoor recreational activities.

ANIMAL HOSPITAL — A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

APARTMENT BUILDING — A two-family or multifamily dwelling comprised of individual dwelling units designed for long term rental.

APPLICANT – A property owner or his duly authorized representative, as designated by an affidavit or authorization filed with the Village, who intends to undertake any development or other activity subject to these Regulations.

ASSISTED LIVING FACILITY — Residences for the elderly that provide rooms, meals, personal care, and supervision of self-medication. They may provide other services, such as recreational activities, financial services and transportation.

AUTOMOBILE DEALER – The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, light trucks, vans, trailers, or recreational vehicles, and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

AUTOMOBILE SERVICE FACILITY — Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, servicing and repair of automobiles and light trucks, with a gross vehicle weight rating (GVWR) equal to or less than 8,500 pounds, and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

BANK — an institution offering financial services, such as the safekeeping of money, lending of money at interest, conversion of domestic into and from foreign currencies, acceptance of bills of exchange, and transacting other financial business.

BED-AND-BREAKFAST ESTABLISHMENT — An owner-occupied dwelling in which at least one and not more than six rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such occupant and in which no public restaurant is maintained.

BOARDING, LODGING, OR ROOMING HOUSE — A private dwelling in which at least two but not more than six rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BUILDING HEIGHT – The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

BULK STORAGE – The storage of chemicals, petroleum products, grains, and other materials in structures for subsequent resale to distributors or retail dealers or outlets.

BUSINESS SERVICE – Businesses primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective services, research development and testing, photo finishing, printing and copying, and bulk office supply services.

CAMPGROUND — Any parcel of land on which are located two or more cabins, tents, shelters, or accommodations for recreational vehicles and travel trailers, of a design or character suitable for seasonal or other more or less temporary living purposes, including summer colony, resort, and day camp, but not including a mobile home park, boardinghouse, hotel or motel.

CAR WASH – Any building or premises used for washing motor vehicles.

CEMETERY – Property used for internment of the dead.

CHURCH – See Place of Worship

CLUB, MEMBERSHIP — Premises of an organization of persons who meet periodically to promote some not-for-profit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted except as required generally for the membership and purposes of the club.

CO-LOCATION — The use of one structure to mount or deploy wireless telecommunications antennas belonging to more than one wireless service provider within a single location. Collocation is adding additional carriers to existing wireless telecommunication towers or adding a wireless antenna facility to existing structures such as church steeples and water towers.

COMMERCIAL USE - any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee other than any such uses specifically listed on any of the classification of compatible uses lists.

COMPREHENSIVE PLAN - A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Town Law 272-a or NYS Village Law 7-722.

COMMUNITY RESIDENCE — A facility for mentally disabled persons as defined by the Mental Hygiene Law and as regulated by the provisions of the New York State Uniform Fire Prevention and Building Code.

CONDOMINIUM – A building or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR'S YARD — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, materials, machinery or vehicles, or parts thereof which are in active use by a construction contractor.

CONVENIENCE STORE — A facility of 4,000 square feet or less of gross floor area with any combination of the following primary characteristics:

- (1) Retail sale of food and beverages for consumption off-premises.
- (2) Sale of prepared foods, such as sandwiches, soups, ice cream, etc., for consumption on or off the premises and may include indoor seating for such purposes.
- (3) Sale of gasoline or other fuel, oil or other lubricating substances or other motor vehicle accessories and generally of a self-service type.

COUNTRY CLUB – A recreational facility usually restricted to members and their guests, which generally includes a clubhouse, dining and eating establishments, and recreational facilities such as golf courses, tennis courts, and swimming pools.

CRITICAL ENVIRONMENTAL AREA - (1) in a hamlet area, wetlands.

CULTURAL FACILITY — Establishments for illustrating or documenting social, intellectual, natural and artistic features that characterize a society and include museums, art galleries, libraries, botanical and zoological facilities, or those characterizing historic, educational or cultural interests.

DAY CAMP — Non-overnight camp providing recreation, arts and crafts and other activities for preschool- and school-age participants, limited to summer and other school vacation periods.

DAY CARE CENTER — A private establishment enrolling four (4) or more school-age or younger children and where tuition, fees, or other forms of compensation for the care of children is received, and which is licensed or approved to be used as a child care center and which is not located within a private residence.

DISTRIBUTION FACILITY – An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including shipment by boat, rail, air, or motor vehicle.

DOMESTIC ANIMAL – Includes poultry, livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof. Dogs, cats, and other pets shall not be considered domestic animals.

DOWNTOWN - Main Street, Broad Street, Church Street, and College Street between Broad and Church Streets

DWELLING – Any building with one or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

DWELLING, SINGLE FAMILY – A dwelling accommodating or designed to accommodate a single family in one dwelling unit.

DWELLING, TWO FAMILY – A dwelling accommodation or designed to accommodate two families in two adjoining dwelling units, sometimes referred to as a duplex.

DWELLING, MULTI-FAMILY – A dwelling accommodating or designed to accommodate three or more families in separate dwelling units, including condominiums and apartment houses.

DWELLING UNIT — A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boardinghouse, dormitory, motel, inn, nursing home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit.

ERECT - means to build, construct, alter, enlarge, relocate, attach, hang, place, affix or maintain any sign, and includes the painting of wall or window signs.

EQUIPMENT RENTAL OR SALES – The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used equipment, and including any preparation, warranty, or repair work conducted as an accessory use.

EXTRACTIVE OPERATION/MINE — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, or for use off site, at another location, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

FAMILY — One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

FARMERS' MARKET — The seasonal selling or offering for sale at retail of produce, flowers, orchard products, and similar vegetable or animal agricultural products, occurring in a pedestrian area, where vendors are individuals who have raised or processed the produce, or have taken the same on consignment for retail sale.

FARMSTAND — A permanent structure used for retail sales of agricultural products. See Farmers' market and roadside stand for additional farm retail related definition.

FOOD HUB – A business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products, primarily from local and regional producers to strengthen their ability to satisfy wholesale, retail, and institutional demand.

FOOD PROCESSING FACILITY, SMALL SCALE — A Food Processing Facility less than 2,500 square feet in size. Such establishments include but are not limited to: caterers, bakeries, cheese makers, butchers, wineries, distilleries, and breweries. Such establishments do not include large scale industrial operations such as slaughter houses, flour mills, and canneries that depend on the regional market for raw material suppliers and wholesale customers.

FORESTRY and LOGGING OPERATION — The process in which trees are felled (cut down) as part of a timber harvest, to supply firewood, or raw material for the wood products industry including logs for sawmills, or pulp wood for the pulp and paper industry. Timber harvesting can also remove wood for forest management or wildlife management purposes. Forestry operations usually involve a trained forester for the purposes of the management of woodland to provide timber for sale.

FOOTPRINT – The area encompassed by a building's outer wall at ground level.

FUNERAL HOME – A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE, PRIVATE — An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service, other than a home occupation authorized by special use permit, is conducted for profit therein nor space therein for more than one car leased to a nonresident of the premises.

GARAGE, PUBLIC — Any garage, other than a private garage, available to the public, operated for gain and which is used for storage of automobiles or other motor vehicles.

GASOLINE STATION — Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car-washing equipment.

GLARE - The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual clarity and visibility.

GREENHOUSE – A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale.

GUEST COTTAGE OR CABIN DEVELOPMENT — Any parcel of land on which are located two or more cottages, cabins, or other accommodations of a design or character suitable for seasonal or other temporary living purposes, including summer colony and resort, but not including a mobile home park, boardinghouse, hotel or motel.

GUEST HOUSE — A secondary detached dwelling unit or part thereof that provides accommodations for visitors of the primary dwelling unit without compensation.

HEIGHT, BUILDING – The vertical distance measured from the average elevation of the proposed grade line of the ground about the building to the highest point of the building exclusive of chimneys, steeples, antennas, and other appurtenances.

HIGH QUALITY VIEWS- Views from public buildings, properties, spaces, streets, or sidewalks of Lake Champlain or mountainous landscapes.

HISTORIC STRUCTURE - a structure that is at least 50 years old.

HOME OCCUPATION, MINOR - A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ any persons other than the owner/operator and other family members in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small sign or lawn plaque. Customers, clients, or other business associates occasionally enter the premises, but not on a daily basis. The business does not store business products, equipment or vehicles

outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

HOME OCCUPATION, MAJOR – A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than four persons, in addition to the owner/operator and other family members in the home occupation who reside on the premises. Exterior evidence of this secondary use includes a sign; customers, clients, and other business associates entering the premises daily; storage of business products, waste, or equipment; parking for employees or customers; and delivery truck visits or other traffic beyond that expected of a typical residence regardless of the number of employees.

HORSE BOARDING OPERATION — An agricultural operation consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually for fees generated either through the boarding of horses or through the production for sale of crops, livestock, livestock products, or through both such boarding and such production. A horse boarding operation provides care, housing, health, related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities that are directly related to, and incidental to, the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and uses for such activities, are part of the farm operation. Riding academies offering riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding and operations whose primary function is horse racing are not considered a horse boarding operation. A horse boarding operation is also known as a horse stable.

HOSPITAL — A building containing beds for four or more human patients and used for the diagnosis, treatment or other care of human ailments.

HOTEL — A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment, and/or recreational facilities.

JUNKYARD — An area of land, with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags, scrap metal or used building materials, home furnishings, machinery or parts thereof, with or without the dismantling, processing, salvage or other use or disposition of the same. Also known as a junk storage area.

KENNEL — Any premises on which are kept four or more dogs more than six months of age or any number of dogs that are kept for the primary purpose of sale or for the purposes of boarding, care or breeding and for which a fee is charged or paid.

LANDFILL — A lot or land area used primarily for the disposal or abandonment, burial, burning or other disposition of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

LAND USE ACTIVITY - any construction, land division or other activity that materially 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, material changes in or expansions of existing uses, signs, roads, driveways, extraction of soil or mineral deposits, demolition and major facade or street front renovations.

LAUNDERETTE OR DRY CLEANER – An establishment providing washing, drying, or dry-cleaning services, or self-service machines for these uses, on the premises for use by the general public.

LUMBERYARD – An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber, and lumber products.

LEVEL OF NATURAL GROUND - the level of ground prior to any grading or fill done primarily for the purpose of erecting any sign or raising the level of a sign's allowable height.

LUMINOUS SIGN - an incandescent or other sign which gives forth its own light, or any transparent or translucent sign through which artificial light is emitted, including, without limitations any neon sign, fluorescent sign or advertising light display.

MANUFACTURED HOME — A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in the traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m²) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURING OR PROCESSING FACILITY – An establishment 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.

MARINA or BOAT BASIN — Any premises containing one or more piers, wharves, docks, moorings, bulkheads, buildings, pumping facilities, slips, basins or land under water designed, used or intended to be used primarily for the docking or mooring of boats for compensation.

MEDICAL CLINIC – A facility principally engaged in providing services for health maintenance, and the treatment of mental or physical conditions without providing overnight or long-term accommodations for patients.

MIXED USE BUILDING - a residential dwelling located in the same building that contains nonresidential uses. All nonresidential uses in a mixed-use dwelling shall front the street.

MOBILE HOME — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which in the traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m²) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

MOTEL — An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTOR VEHICLE SERVICE OR REPAIR SHOP — Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, servicing and repair of automobiles, trucks, and construction equipment including those with a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

MUNICIPAL BUILDING – A building or structure owned and maintained by, or leased to Village of Port Henry, Town of Moriah or other municipality for use by governmental agencies. Examples are: Town or Village hall, highway garage, structures on town-owned parkland, etc.

NIGHTCLUB — A drinking establishment which includes either an area in which patrons may dance or which provides live entertainment other than by a single instrumental musician or vocalist.

NON-CONFORMING LOT – A lot existing at the time of enactment of this law or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE – A use of land existing at the time of enactment to this law and which does not conform to the regulations of the district or zone in which it is situated.

NOT-FOR-PROFIT MEMBERSHIP CLUB OR SOCIAL ORGANIZATION – A group of persons who have come together on a formal basis, with bylaws and membership requirements, with the object of providing humanitarian, charitable assistance, or otherwise promoting the common interests of the group's members.

NUISANCE NOISE – An undesired audible sound that interferes with the enjoyment and use of property. For purposes of this law a decibel level exceeding 60 dB measured at the property boundary shall be a nuisance noise.

NURSERY – The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers.

NURSERY SCHOOL — Any premises, however designated, which operates on a regular basis to provide care or instruction for five or more enrolled children under six years of age other than the children of the resident family. The term "nursery school" shall include a kindergarten, pre-

school, day nursery, and day-care center and family day-care facility as defined and regulated by § 390 of the New York State Social Services Law.

NURSING HOME — Premises on which is provided lodging, meals and continuing nursing care for compensation to convalescent or chronically ill persons. The term "nursing home" shall include a memory care facility.

OFFICE, PROFESSIONAL — A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and usually furnished with desks, tables, files, and communication equipment.

OUTDOOR SALES – The display and sale of products outside of a building in association with an indoor retail sales operation.

PARK or RECREATION AREA – A tract of land either privately owned or owned by a branch of government, made available for active and/or passive recreational purposes. Also known as a recreational area.

PERMITTED USE BY RIGHT - Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and for which no review by the Planning Board is required. It is designated as a (P) in Table 1. However, a building permit issued by the Building Inspector may be required.

PERSONAL SERVICE ESTABLISHMENT — Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, including but not limited to, beauty shops, shoe repair, barbershops, and domestic services.

PLACE OF WORSHIP – A church, synagogue, temple, mosque, or other facility that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

PREEXISTING LAND USE OR DEVELOPMENT OR PREEXISTING USE- any land use or development, including any structure, lawfully in existence prior to the adoption of this Zoning Law. For the purposes of this definition, lawfully means in full compliance with all applicable laws, rules and regulations, including possession of and compliance with any permit or other approval required under the Public Health Law, the Environmental Conservation Law, or any local or other governmental regulation.

PRINCIPAL USE — The main use of a lot or structure.

PUBLIC UTILITY — With the exception of wireless telecommunications, a closely government-regulated enterprise with a franchise for providing to the general public a utility service deemed necessary for the public health, safety, and welfare. Public utility facilities are buildings or structures, above ground and underground, that provide the utility services such as switching stations, poles, lines, pipes, pumping stations, antennas, transmitters, receivers, and valves relating to electric, gas, telephone, water, sewer, public transit, and cable.

RECYCLING FACILITY – Land and buildings used for the sorting, separation, processing, and reshipment of solid waste for eventual reuse in new products.

RETAIL SALES — Establishments engaged in selling goods, food, or merchandise to the general public for off-site personal or household consumption and rendering services incidental to the sale of such goods.

RESEARCH LABORATORY – A facility for investigation into the natural, physical, or social sciences, which may include engineering and product development.

RESTAURANT — An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

ROADSIDE STAND, AGRICULTURAL PRODUCE STAND — A temporary structure where products grown on the premises or elsewhere by the operator of the roadside stand may be sold and purchased.

SCHOOL, FOR PROFIT – Any building or part thereof that is designed constructed or used for education or instruction in any branch of knowledge and operated as a business for profit. These include business and trade schools, schools of art, dance, theater, culture, and martial arts, as well as academic institutions.

SCHOOL, PRIVATE, PAROCHIAL, CHARTER, TECHNICAL – Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education.

SCENIC VIEW – See High Quality View.

SELF-STORAGE — Structures or fully screened open areas divided into separate storage spaces that are rented to tenants on a monthly basis.

SENIOR CITIZEN HOUSING — Multifamily housing that is age-restricted and designed for use by older people, not including assisted living facility, or Nursing Home.

SEQRA - the State Environmental Quality Review Act.

SETBACK – The distance in feet between the building or other use and any lot line or designated point. Front setbacks are measured from the building to the edge of the pavement of a road.

SETBACK, ZERO – Where a building is allowed to be built to the property line.

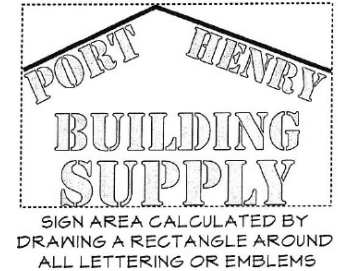
SHOPPING CENTER — A tract of land with buildings or structures planned as a whole and intended for one or more establishments for retail, office or allied purposes.

SHORELINE - the mean high water mark of any lake, pond, river or permanent stream. The mean high water mark of Lake Champlain is 99.8 feet above mean sea level.

SIGN - any sign, billboard, advertising structure or inscribed surface, pattern of artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure or other visually communicative or expressive device that is visible from an out of doors position and is used to advertise or call the public's attention to any business or activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype or advertising

matter is made visible. The meaning of sign shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

SIGN AREA - the total area of all faces or surfaces of a sign anywhere upon which writing or any illustrative, emblematic or other artistic or expressive matter appears; or, in cases where writing or illustrative, emblematic, or other artistic or expressive matter is not set against any face or surface, the total area within a single continuous rectangular perimeter enclosing the extreme limits of such writing or illustrative, emblematic or other artistic or expressive matter (see diagram to right). The sign area of a sign having more than one face or surface on which writing or illustrative, emblematic or other artistic or expressive matter appears shall be the total area of all such faces or surfaces; but if a sign consists of two such faces or surfaces placed back to back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.



SOLAR ENERGY SYSTEM, SMALL SCALE – A complete design or assembly consisting of a solar energy collector, and energy storage facility (where used), and components for the distribution of transformed energy. Small scale systems are limited in size to produce only the amount of energy that can reasonably be expected to be used by the principal use of the property on which they are located.

SOLAR ENERGY SYSTEM, SMALL SCALE, BUILDING MOUNTED – A Small Scale Solar Energy System where the solar collectors are attached to the roof of a building or structure that has an occupancy permit and that is either the principal structure or an accessory structure, and do not extend more than 18 inches above the roof plane, or are integrated into the building or structure in such a way as to make them a part of the buildings architecture

SOLAR ENERGY SYSTEM, SMALL SCALE. GROUND MOUNTED - A Small Scale Solar Energy System mounted on a structure, pole or series of poles constructed specifically to support the solar collectors and not attached to any other structure.

SOLAR ENERGY SYSTEM, LARGE SCALE – A complete design or assembly consisting of a solar energy collector, and energy storage facility (where used), and components for the distribution of transformed energy. Large scale systems are not limited to the production of energy that can reasonably be expected to be used by the principal use of the property on which they are located. They may be designed to provide energy to off-site uses. Large scale systems may be the principal use of a property.

STRUCTURE - any object constructed, installed or placed on land to facilitate land use and development or division of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

STRUCTURE - any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto.

TAVERN, BAR — Premises used primarily for the sale or dispensing of beer, wine, or 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.

UNIQUE GEOLOGIC FORM – A landscape that has soil, rock, slope, or other natural geologic characteristics that are distinct in the community.

UNIQUE HISTORICAL FORM – A building, structure, or place which is of importance because of their association with history; or because of their unique architectural style and scale, including color, proportion, form, and architectural design.

USE VARIANCE – The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VACATION RENTAL – The use of an approved dwelling by any person or group of persons who occupies or is entitled to occupy a dwelling unit, guest room, or guest house for compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property for a period of less than 30 calendar days, counting portions of days as full days.

WAREHOUSE — A building used primarily for the storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

WIRELESS TELECOMMUNICATIONS FACILITY — An unstaffed facility in connection with the commercial operation of a personal wireless services facility as defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C). Such facility usually consists of an equipment shelter, a support structure and/or other transmission and reception devices.

WIRELESS TELECOMMUNICATIONS TOWER — A lattice structure framework, or monopole, that is designed to support personal wireless service or other communications system, transmission, receiving and/or relaying antennas and/or equipment.

WOOD BOILER, INDOOR/OUTDOOR – Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. A wood boiler must be approved by the Environmental Protection Agency.