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Solar

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Chapter 208: Zoning

Code

Relevance

1. 208-7A{138}SOLAR ARRAY, GROUND-OR POLE-MOUNTED

Any **solar** collector, controls, **solar** energy storage device, heat exchangers, or solar-thermal energy system which is directly installed on the ground and not affixed to an existing structure. [Added 3-21-2011 by L.L. No. 9-2011]

Zoning > Definitions > Definitions and word usage.

o solar3

2. § 208-74Action by the Town Board.

[Amended 3-21-2011 by L.L. No. 9-2011; 11-9-2015 by L.L. No. 12-2015]

A.

Upon receipt of the report from the Planning Board, the Town Board may accept or reject the recommendation. Upon acceptance of the report from the Planning Board, the Town Board may schedule and conduct a public hearing for considering planned development districting for the applicant's plan not less than 30 days after public notice has been given of the time and place of the holding of such public hearing.

B.

If the change of zone is approved by the Town Board, the Town Zoning Map shall be amended so as to define the boundaries of the planned development district. Supplemental zoning maps depicting the boundaries of the new planned development district shall be prepared by the applicant, and filed with the Town Clerk upon approval and adoption by the Town Board, and such amendment shall be advertised and recorded in accordance with the requirements of § 265 of New York State Town Law.

C.

The Town Board may, if it believes it necessary in order to fully protect the health, safety and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements the applicant must meet to mitigate impacts to the surrounding neighborhood or community or to provide a public benefit as a result of the project. Such requirements may include but are not limited to:

(1)

Visual and acoustical screening.

(2)

Land use mix.

(3)

Schedule of construction and occupancy.

(4)

Pedestrian and vehicular circulation system.

(5)

Parking and snow removal.

(6)

Sites for public services.

(7)

Protection of natural and/or historical features.

(8)

Pedestrian access.

(9)

Lighting.

D.

Following Town Board approval of the zoning change, the applicant shall follow site plan and/or subdivision review procedures with the Planning Board per Chapter **208** and/or Chapter **179** of the Town Code.

E.

Uses requiring special use permits.^[1]

(1)

Applications for ground- or pole-mounted **solar** arrays in existing Planned Unit Development Districts approved or constructed prior to the adoption of this section shall be referred to the Planning Board for review and recommendation pursuant to the standards for review contained in § 208-179. The Planning Board shall make its recommendation within 90 days following referral by the Town Board of any application for amendment to an existing Planned Development District for ground or pole mounted **solar** arrays.

[1]

Editor's Note: See § 208-179, Special use permits.

Zoning > Planned Development Districts

○ **solar**²

3. § 208-43.3 Space and bulk requirements.

Space and bulk requirements are as follows:

A.

One-family-detached dwellings: limited to no more than 25% of a parcel's total potential density:

(1)

Base density: one unit per acre.

(2)

Minimum lot size: 6,000 square feet.

(3)

Minimum lot width: 50 feet.

(4)

Minimum lot frontage: 50 feet.

(5)

Front yard: five feet.

(6)

Rear yard: 25 feet.

(7)

Side yard: five feet (20 feet adjacent to commercial units).

(8)

Maximum building height: 35 feet.

(9)

Minimum lot size for all ground- or pole-mounted solar arrays is 20,000 square feet.

[Added 3-21-2011 by L.L. No. 9-2011]

B.

Commercial uses and two-family, semidetached, and multifamily dwellings: limited to no more than 25% of the parcel's total potential density.

(1)

Base density:

(a)

Requirements.

[1]

Office uses: 4,000 gross square feet per acre.

[2]

Retail uses: 2,000 gross square feet per acre.

[3]

Two-family, semidetached and multifamily dwellings: 3,000 gross square feet per acre.

(b)

For example, a project that includes 4,000 gross square feet of office space, 2,000 gross square feet of retail space, and 3,000 square feet of multifamily space would require three acres of unconstrained land.

(2)

Minimum lot size: 12,000 square feet.

(3)

Minimum lot width: 80 feet.

(4)

Minimum lot frontage: 50 feet.

(5)

Front yard: 10 feet.

(6)

Rear yard: 30 feet.

(7)

Side yard: zero feet (20 feet adjacent to residential uses).

(8)

Maximum building size - office: 40,000 gross square feet (20,000 gross square feet footprint).

(9)

Maximum building size - retail: 20,000 gross square feet.

(10)

Maximum building size - mixed: 40,000 gross square feet (20,000 gross square feet footprint).

(11)

Maximum building height: 40 feet.

(12)

Minimum greenspace: 25%.

Zoning > Hamlet Mixed Use (HM) District

○ **solar1**

4. § 208-17Hamlet Residential (HR) District.

[Added 5-9-2005 by L.L. No. 5-2005]

A.

Purpose.

(1)

The purpose of the Hamlet Residential (HR) District is to prevent adverse impact to the character of Western Clifton Park and to the Hamlet of Rexford and to ensure that future growth is consistent and complementary to the existing hamlet settlement patterns. New development within the HR District shall adhere to the guidelines and standards set forth in the Western Clifton Park Design Guidelines.⁽¹⁾ In general, development should:

(a)

Enhance existing, unique, traditional hamlet settlement patterns within Western Clifton Park.

(b)

Restore, conserve and enhance the "sense of place" of the Hamlet of Rexford through complementary, compact, new development, infill development and redevelopment layout and design

(c)

Support a primarily residential setting within the HR District that connects and transitions to the nearby Hamlet Mixed-Use Zone to the north in the rest of the Hamlet of Rexford.

(d)

Foster pedestrian-friendly, walkable environments.

(e)

Utilize area master planning, and site plan layouts and architectural styles consistent with the form of traditional Hamlet of Rexford.

(f)

Support connections within the Hamlet of Rexford and the vicinity both within the hamlet and outside of the Hamlet,

(g)

Create access and connections such as to the Mohawk River waterfront and to the Mohawk Towpath Scenic Byway, and other existing and proposed Town-wide and regional pathways and trails

[1]

Editor's Note: The Park Design Guidelines are contained in the Western Clifton Park Land Conservation Plan GEIS, on file in the Town offices.

(2)

This section is further intended to support the protection of Town-identified open space within Western Clifton Park with the provision of potential density incentives and transfer of development from Town-identified open space areas to the HR Zone as is applicable.

B.

Permitted uses: restrictions. In Hamlet Residential Districts (HR), no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected, for any purpose other than that of:

(1)

One-family dwellings.

(2)

Accessory structures.

(3)

Home occupation.

(4)

Public utility structures.

(5)

Radio installations, amateur (HAMS). See § **208-95A**.

(6)

Other uses and other buildings and structures as provided by the following subsections:

(a)

Only the following special uses shall be considered pursuant to § **208-79et. seq.**:

[1]

Two-family dwellings, attached or semidetached.

[2]

Community residences.

[3]

Day-care homes.

[4]

Bed-and-breakfasts.

[5]

Facilities for the sale or consumption of farm- and country-related edible and nonedible products at farm markets. Such facilities shall be consistent with the customary activities and operations normally associated with a farm.

[6]

Electrical substations, gas district governor stations, telephone exchanges or other public utility buildings, structures or uses, except as business offices, storage yards, or repair shops, and subject to the provisions of § **208-79E(2)**.

[7]

Churches or places of worship.

[8]

Ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

(b)

Section **208-96**, Temporary uses and structures.

C.

Area and bulk standards. Residential uses:

(1)

Base density: 0.33 unit per acre.

(2)

Minimum lot size: 6,000 square feet.

(3)

Front yard: 50 feet.

(4)

Rear yard: 25 feet.

(5)

Side yard: five feet (10' adjacent to commercial units).

(6)

Maximum building height: 35 feet.

(7)

Ground- or pole-mounted solar arrays are not permitted without a minimum lot size of 20,000 square feet.

[Added 3-21-2011 by L.L. No. 9-2011]

D.

Density bonus (through open space incentive zoning provisions). Residential bonus: Applicants may propose and seek Town approval for an increase in the density of residential units within the Hamlet Residential (HR) Zoning District per § 208-4[3] 5 and Article VB upon securing the required applicable development rights to Town-identified open space parcels within Western Clifton Park.

E.

Site plan review. Applications will be considered by the Planning Board in accordance with Article XVI, Site Plan Review and Approval, and the Western Clifton Park Design Guidelines.^[2]

[2]

Editor's Note: The Park Design Guidelines are contained in the Western Clifton Park Land Conservation Plan GEIS, on file in the Town offices.

Zoning > Residential Districts

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5. § 208-43.2 Permitted uses.

[Amended 3-21-2011 by L.L. No. 9-2011]

The following are permitted uses:

Uses	Permitted (P) or Special Permits(s) Pursuant to § 208-79 et seq.
Business Uses	P
General business offices	P
Medical and dental offices and clinics, excluding overnight occupancy by patients	P
Attorneys' offices	P
Offices for licensed professionals; for example, architects, accountants, engineers, psychologists, optometrists and chiropractors	P
Insurance offices of independent or general agents, including regional or district offices of individual companies	P
Mortuaries or funeral homes	P
Center for the day care of children	P
Real estate offices	P
Banking institutions	P
Financial services, e.g., investment counseling and tax services	P
Animal hospital/veterinary offices, with the exclusion of outdoor runs and commercial kennels	P
Mixed-use buildings, with combination of commercial uses on ground floor with residential units on upper floors*	P
Home occupations	P
Day-care homes	P
Bed-and-breakfast facilities	S
Facilities for the sale and/or consumption of farm- and country-related edible and nonedible products at farm markets. Such facilities shall be S	

	Permitted (P) or Special Permits(s) Pursuant to § 208-79 et seq.
Uses	
consistent with the customary activities and operations normally associated with a farm.	
Animal-care facilities, provided that any structure or area used for such purposes, including pens or exercise runs, shall be at least 100 feet distant from any residential district	P
Bank or savings-and-loan associations	P
Bowling alleys	P
Convenience food stores	P
Day-care centers	P
Self-storage facilities that appear residential in character	P
Dry-cleaning establishments, where not more than five persons are employed and where no flammable cleaning fluids are used	P
Personal service establishments	P
Restaurants; or barrooms, provided that no portion of the portion of a building occupied by such uses shall be located within 300 feet of the boundary line of any residential district	P
Commercial recreation facilities, subject to the provisions of § 208-94	S
Municipal Uses	
Private schools, excluding business, dancing, trade or any other commercially oriented school	P
Nonprofit institutions for charitable, religious, cultural or community purposes	P
Emergency ambulance facilities if and only as long as these facilities are under contract to the Town of Clifton Park to provide general health services to the Town	P
Public utility structures	P
Radio installations, amateur (HAMS) (See § 208-95A)	P
Electrical substations, gas district governor stations, telephone exchanges or other public utility buildings, structures or uses, except business offices, storage yards, or repair shops, and subject to the provisions of § 208-79E(2).	S
Federal, state, county or Town municipal buildings	P
All other telecommunication towers as in § 208-95B	P
Cemeteries	S
Churches or other places of worship	P
Section 208-96, Temporary uses and structures	S
Public libraries	S
Residential Uses	
Solar arrays: Ground- or pole-mounted solar arrays	S

	Permitted (P) or Special Permits(s) Pursuant to § 208-79 et seq.
Uses	
One-family dwellings	P
Two-family dwellings	P
Community residences	P
Dwellings, two-family and/or semidetached	P
Accessory structures: buildings accessory to the above which are an integral part of any of the above uses and are not in conflict with the purposes of this article as set forth above, which determination shall be made by the Planning Board	P
Notes:	
*See "mixed-uses" (§ 208-43.4 below)	

Zoning > Hamlet Mixed Use (HM) District

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6. § 208-79Special use permits.

A.

Purposes and general provisions.

(1)

The purpose of this article is to set forth the application procedure for consideration of special uses within individual zoning districts. These procedures apply to certain land uses and activities which, due to their particular characteristics or the nature of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.

(2)

Special uses for each district are set forth in Articles III through XI of this chapter.

(3)

The special uses for which conformance to additional standards is required by this article are deemed by their inclusion within such zoning district to be permitted uses in their respective districts, subject to demonstration by the applicant of sufficient proof of the satisfaction of the requirements and standards set forth herein. All such uses are declared to possess characteristics of such a unique and special nature that each specific application shall be considered an individual case, and the granting of a special use permit for one special use in a zoning district shall be limited to its own facts and circumstances and shall have no precedential effect entitling or implying that a similar use would be capable of satisfying the requirements and standards set forth herein.

B.

Administration by Planning Board. The Planning Board is hereby authorized to administer and carry out the intent established in this article.

C.

Application procedures prior to Board review.

(1)

An application for a special use permit shall be made by the applicant to the Building Inspector. It shall be the duty of the Building Inspector to determine if the special use is permitted in the zone in which the use is proposed to be located. In the event that the Building Inspector determines that the use is permitted, the application for a special use permit shall be forwarded to the Planning Board as set forth hereinbelow.

(2)

The Planning Board shall review such applications for special use permits as set forth in § **208-79D** below.

D.

Application procedures to Planning Board.

(1)

Upon receipt of the application for a special use permit, the Planning Board shall hold a public hearing after public notice and in accordance with § **208-109E** of this chapter. Unless otherwise extended by mutual consent of the Planning Board and the applicant, the Planning Board shall act upon the application within 62 days from the date of the public hearing. In the event that a determination is not made by the Planning Board within said sixty-two-day period, the application shall be deemed approved.

(2)

At least seven days but not more than 20 days before the date of the hearing, the applicant shall mail a copy of legal notice of the hearing to all property owners of property within 500 feet of the applicant's parcel following the procedure contained in § **208-115F** of this chapter.

(3)

Prior to taking action on a special use permit application for properties which fall under § 239-m of the General Municipal Law, the Board shall make referrals to the county planning agency in accordance with §§ 239-l and 239-m of the General Municipal Law.

(4)

Prior to granting any approvals relative to the proposed application, the appropriate lead agency shall undertake SEQRA review and determination in accordance with New York State Environmental Conservation Law and 6 NYCRR Part 617.

(5)

As a condition of approval of a special use permit, the Planning Board may require a performance bond, client fund account, or letter of credit to guarantee satisfactory performance of the required improvements. Such security shall be part of or in addition to any required by the Planning Board as part of a site plan review application.

(6)

The Planning Board shall attach such conditions and safeguards to the special use permit as are determined by the Planning Board to be necessary or desirable to ensure conformance with the letter and spirit of all applicable standards and requirements and to protect the public health, safety and general welfare. The Planning Board may require any off-site, off-premises improvements that might be necessary to mitigate the impacts of the proposal.

(7)

Fees. See § **103-16** for fees associated with a special use permit.

E.

Standards for special use permits.

(1)

Before granting approval to any special use, the Planning Board shall determine whether the proposed special use will, among other things, satisfy the following considerations:

(a)

That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.

(b)

That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located.

(c)

That the public health, safety, general welfare or order of the Town will not be adversely affected by the proposed use in its location.

(d)

That the use will be in harmony with and promote the general purposes and intent of the Comprehensive Plan and this chapter.

(e)

That the character of the existing uses and approved future development in the district will not be adversely affected by the location of the proposed special use in the proposed location.

(f)

The conservation of property values in the vicinity of the proposed specially permitted use and the encouragement of the most appropriate use of land.

(g)

The effect that the location of the proposed use may have on the increase of vehicular traffic congestion on public streets and highways.

(h)

That the proposed site provides adequate parking facilities to protect against hazardous traffic and/or parking conditions.

(i)

The availability of adequate and proper public or private facilities for water and for the treatment, removal or discharge of sewage, refuse or effluent (whether liquid, solid, gaseous or otherwise) that may be caused by or as a result of the proposed use.

(j)

Whether the use or materials incidental thereto or produced may give off obnoxious odors, smoke or soot or will cause disturbing emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and general welfare.

(k)

Whether operations of the special use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing or if proposed by the Town or by other governmental agencies.

(2)

Additional standards applicable to electrical substations in residential zones. No special use permit shall be granted for an electrical substation in any residential district or Business District B-3 unless the Planning Board shall conduct a public hearing at a regularly scheduled Town Board meeting.

(3)

Solar arrays: ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

(a)

Factors to be considered by the Planning Board in determining the siting requirements for solar installations under this section:

[1]

The setbacks proposed and available in relation to other applicable setbacks for the zone within which the installation is proposed.

[2]

The proposed height, width and dimensions of the installation and housing structures, and whether the proposed installation is compatible with adjacent uses in terms of scale, siting, design, lighting and noise generation.

[3]

The maximum surface area of the proposed installation in relation to the available lot size for the host parcel.

[4]

Energy load of the primary residence or buildings to be powered by the installation.

(b)

Additional design standards for ground- and pole-mounted solar arrays:

[1]

All installations shall be screened with an appropriate combination of natural vegetative buffer, landscaping, or other such screening as the Planning Board shall determine, and installations shall be sited so as to minimize significant adverse visual and/ or auditory impacts.

[2]

The Planning Board may require visual simulations sufficient to determine potential visual impacts during the review process, as well as other information and reasonably necessary in the Board's discretion.

(c)

The Planning Director may waive the requirement for a special use permit in all residential zones for a ground- or pole-mounted solar array of less than 325 square feet cumulative panel area, upon good cause shown, and upon such terms and conditions as he or she shall determine.

(4)

Additional standards for review for applications for permanent farm labor housing pursuant to § **208-16D**.

[Added 5-2-2011 by L.L. No. 11-2011]

(a)

Permanent farm labor housing as defined in this section may be allowed under the following circumstances and conditions:

[1]

Only by special use permit issued by the Planning Board. The Planning Board will determine the nature of site plan review to be required based upon the number of units, size and complexity of the housing to be provided.

(b)

Farm labor housing units that cease to be used as such for a period of 2 1/2 years shall be removed, subdivided from the farm property, or converted to an appropriate farm use on application to the Planning Board by the Code Enforcement Office.

F.

Revocation of permit: enforcement.

(1)

A use authorized by special use permit may be revoked by the Planning Board if it is found and determined, after a public hearing, that there has been a material failure of compliance with any one or more of the terms, conditions, limitations or requirements imposed by said permit.

(2)

All special use permits shall be subject to the provisions of Article **XV** of this chapter.

G.

Modifications and additions to special uses.

(1)

An amendment or modification to an existing special use is any change in the size or configuration of the structures or appurtenances associated with the facilities constituting the special use. A change in the nature of the use of the lot(s) in question is to be considered a proposed new special use of the affected lot(s) and will require an application for and consideration of a special use permit pursuant to § **208-79C**.

(2)

Any amendment or modification of an existing special use will be subject to site plan review by the Planning Board pursuant to Article **XVI** of this chapter. Application for a special use permit for the proposed amendment or modification will not be required.

(3)

Subject to the foregoing, any amendment or modification will be limited to a twenty-five-percent expansion of the improved area subject to the special use. The amendment/modification must be consistent with the presently permitted special use.

Zoning > Exceptions and Special Provisions

○ **solar5**

7. § 208-10Residential 1 Districts (R-1).

A.

General provisions. Residential 1 Districts (R-1) are primarily for suburban residence uses and to accommodate relatively dense residential development at densities appropriate with environmental restrictions and which transition between the Town's primary commercial development districts and lower-density districts both in density and allowable land uses. The Town has an approved Agricultural District (which does not directly affect zoning). A copy of the map of this district may be reviewed in the Town Clerk's office. (See also Article **XII**, Vischers Ferry Road Corridor).

B.

Permitted uses; restrictions. In Residential 1 Districts (R-1), no building or other structure or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than that of:

(1)

Any form of agriculture or horticulture, including the storage, processing and sale of farm products, except as follows:

(a)

The following uses are prohibited on lots smaller than five acres in size:

[1]

Keeping livestock or poultry, such as hogs, cows, horses, goats or chickens.

[2]

Commercial greenhouses.

[3]

Roadside stands or other structures for the sale of farm products.

(b)

All necessary odors, noises and agricultural chemicals associated with approved farming practices shall be permissible.

(2)

A one-family dwelling and its accessory buildings.

(3)

Public utility structures.

(4)

Emergency ambulance facilities if and only as long as these facilities are under contract to the Town of Clifton Park to provide general health services to the Town.

(5)

Residential cluster development, under the provisions of § **179-37** of the Code of the Town of Clifton Park.

(6)

Home occupation.

(7)

Radio installations, amateur (HAMS). See § **208-95A**.

(8)

All other telecommunication towers on shared sites as in § **208-95B**.

[Added 12-9-1996 by L.L. No. 11-1996]

(9)

Other uses and other buildings and structures as provided by the following sections:

(a)

Only the following special uses shall be considered pursuant to § **208-79** et seq.:

[1]

Cemeteries.

[2]

Accessory use of a building.

[3]

Timbering. (See Chapter **184** of this Code)

[4]

Excavation and removal of stone, sand and gravel.

[5]

Day-care home.

[6]

Bed-and-breakfast facilities.

[7]

Dwelling, two-family and/or semidetached.

[8]

Church or other place of worship.

[9]

Facilities for the sale and/or consumption of farm- and country-related edible and nonedible products at farm markets. Such facilities shall be consistent with the customary activities and operations normally associated with a farm.

[10]

Electrical substation, gas district governor station, telephone exchange or other public utility building, structure or use, except a business office, storage yard, or repair shop, and subject to the provisions of § **208-79E(2)**.

[11]

Storage of LP gas in excess of 1,100 gallons.

[12]

Ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

(b)

Section **208-96**, Temporary uses and structures.

C.

Space and bulk standards. See § **208-11**.

Zoning > Residential Districts

o solar1

8. § **208-11**Space and bulk standards.

... not less than 60 feet at the front building line, for the R-1 District. e. Ground- or pole-mounted **solar** arrays are not permitted without a minimum lot size of 20,000 square feet.

Zoning > Residential Districts

o **solar1**

9. § 208-8Agricultural/Residential 3 Districts (R-3).

A.

General provisions. The Agricultural/Residential 3 Districts (R-3) are primarily for agriculture and nonfarm or exurban residential uses. The purpose is to provide areas within the Town for the development of very low-density residential uses appropriate with environmentally limiting conditions while protecting the rural character of these portions of the Town. Development which occurs within the district should be sensitive to the rural nature of the district and the environmental limitations of lands within the district and should preserve open space and agricultural land to the maximum extent possible. The Town has an approved agricultural district (which does not directly affect zoning). A copy of the map of this district may be reviewed in the Town Clerk's office.

B.

Permitted uses; restrictions. In Agricultural/Residential 3 Districts (R-3), no building or other structure or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than that of:

(1)

Any form of agriculture or horticulture, including the storage, processing and sale of farm products, except as follows:

(a)

The following uses are prohibited on lots smaller than five acres in size:

[1]

Keeping livestock or poultry, such as hogs, cows, horses, goats or chickens.

[2]

Commercial greenhouses.

[3]

Roadside stands or other structures for the sale of farm products.

(b)

All necessary odors, noises and agricultural chemicals associated with approved farming practices shall be permissible.

(2)

A one-family dwelling and its accessory buildings.

(3)

Public utility structures.

(4)

Emergency ambulance facilities if and only as long as these facilities are under contract to the Town of Clifton Park to provide general health services to the Town.

(5)

(Reserved)^[1]

[1]

Editor's Note: Former Subsection B(5), regarding residential cluster development, was repealed 5-9-2005 by L.L. No. 5-2005.

(6)

Home occupation.

(7)

Radio installations, amateur (HAMS). See § **208-95A**.

(8)

All other telecommunication towers on shared sites as in § **208-95B**.

[Added 12-9-1996 by L.L. No. 11-1996]

(9)

Other uses and other buildings and structures as provided by the following sections:

(a)

Only the following special uses shall be considered pursuant to § **208-79**et seq.:

[1]

Cemeteries.

[2]

Accessory use of a building.

[3]

Timbering (See Chapter **184** of this Code)

[4]

Animal/veterinary office/hospital.

[5]

Excavation and removal of stone, sand and gravel.

[6]

Day-care home.

[7]

Riding stable or riding academy, under the provisions of § **208-85**.

[8]

Roadside sales, under the provisions of § **208-100**.

[9]

Bed-and-breakfast facilities.

[10]

Dwelling, two-family and/or semidetached.

[11]

Church or other place of worship.

[12]

Facilities for the sale and/or consumption of farm- and country-related edible and nonedible products at farm markets. Such facilities shall be consistent with the customary activities and operations normally associated with a farm.

[13]

Electrical substation, gas district governor station, telephone exchange or other public utility building, structure or use, except a business office, storage yard, or repair shop, and subject to the provisions of § **208-79E(2)**.

[14]

Storage of liquefied petroleum (LP) gas in excess of 1,100 gallons.

[15]

Ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

[16]

Permanent farm labor housing. (Requires an operational, commercial farm with a minimum of 10 acres under production.) Farm workers housed under this section must be integral to farm operations in the determination of the Zoning Officer. The farm employee must be employed on an operational commercial farm, and must be integral to farm operations. Farm employees who work on agricultural operations at least 51% of the time in the year are presumed to be integral to farm operations under this section. Family members of such farm workers may occupy premises constructed under this section.

[Added 5-2-2011 by L.L. No. 11-2011]

[a]

Farm operations holding a special use permit for permanent farm housing shall certify to the Building Department that the housing units are occupied by farm employees or family members integral to farm operations, upon request from the Building Department pursuant to Subsection **B(9)(a)[15]**.

(b)

Section **208-96**, Temporary uses and structures.

C.

Space and bulk standards. See § **208-11**.

○ **solar1**

10. § 208-107 Building permits; powers and duties of Building Inspector.

[Amended 12-19-2005 by L.L. No. 12-2005; 10-10-2006 by L.L. No. 8-2006; 12-18-2006 by L.L. No. 20-2006]

A.

Building permits required.

(1)

Except as otherwise provided in Subsection **B** of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure, or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.

(2)

Permits are also required for the following:

(a)

Any excavation for or the construction of any building or structure, including fireplaces, chimneys and accessory buildings.

(b)

Any excavation for or the construction of a subsurface sanitary disposal system.

(c)

The moving, alteration or demolition of, or any addition to any building or structure.

(d)

Reroofing of any building or structure.

(e)

Initial erection of a radio installation, amateur (HAMS).

(f)

Commencement of any soil disturbing activity (SDA), as defined in this chapter.

(g)

Initiation of any construction of infrastructure, including roads, utilities and drainage systems, for any approved subdivision or site plan.

(h)

Ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

B.

Exemptions. No building permit shall be required for work in any of the following categories:

(1)

Construction or installation of up to two single-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided that the gross floor area does not exceed 144 square feet each. No more than two sheds of any size shall be allowed per parcel.

[Amended 2-7-2011 by L.L. No. 6-2011]

(2)

Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3)

Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above the ground;

(4)

Installation of fences which are not part of an enclosure surrounding a swimming pool;

(5)

Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6)

Construction of temporary motion picture, television and theater stage sets and scenery;

(7)

Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8)

Installation of partitions or movable cases less than five feet nine inches in height;

(9)

Painting, wallpapering, tiling, carpeting, or other similar finish work;

(10)

Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11)

Replacement of any equipment, provided that the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12)

Repairs, provided that such repairs do not involve:

(a)

The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;

(b)

The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;

(c)

The enlargement, alteration, replacement or relocation of any building system; or

(d)

The removal from service of all or part of a fire-protection system for any period of time.

C.

Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection **B** of this section shall not be deemed an

authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D.

Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1)

A description of the proposed work;

(2)

The Tax Map number and the street address of the premises where the work is to be performed;

(3)

The occupancy classification of any affected building or structure;

(4)

Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5)

At least two sets of construction documents (drawings and/or specifications) which:

(a)

Define the scope of the proposed work;

(b)

Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

(c)

Indicate with sufficient clarity and detail the nature and extent of the work proposed;

(d)

Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

(e)

Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

E.

Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection **D(5)** of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

F.

Issuance. In applying to the Building Inspector for a building permit, the applicant shall submit a dimensioned sketch or plan, to scale, indicating the shape, size, height and location in relation to all property lines and to street lines of all buildings or structures to be erected, altered or moved and of any building or structure already on the lot. This sketch shall be accompanied by a written statement from a qualified engineer or other satisfactory evidence to the effect that the line of the bounding street has been accurately located and staked on the ground. The applicant shall also state the existing or intended use of all such buildings and supply other information as may be required by the Building Inspector to ensure that the provisions of this chapter are being observed. If the proposed excavations, construction, alterations or moving set forth in the application are in conformity with the provisions of this chapter and other local laws or ordinances of the Town of Clifton Park then in force, the Building Department shall issue a permit for such excavation, construction, alteration or moving.

G.

Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

H.

Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

I.

Refusal. If a building permit is refused, the Building Inspector shall state such refusal in writing, with the cause, and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.

J.

Upon project completion, the applicant shall submit a final set of as-built plans and specifications on a CD utilizing software acceptable and usable by the Town of Clifton Park. This shall apply only to those plans requiring the stamp and signature of a professional engineer or registered architect. This requirement may be waived at the sole discretion of the Director of Building and Zoning.

K.

Term. Every such permit shall expire at the end of one year from the date of issue. The Building Inspector may grant up to two six-month extensions at no additional cost to the permittee, provided that the permittee applies for such extension prior to expiration.

(1)

If the permittee does not renew the permit for a six-month extension prior to the permit expiration date but does apply for the extension within 30 days of the expiration date, a fee of \$45 for residential permits and \$150 for commercial permits shall be paid as outlined in § **103-16**, Building permit fees.

(2)

If construction is not completed within the allowed two-year maximum, the applicant may request a final extension from the Building Inspector, provided that proof of substantial completion (90% of the project cost or more) of the project is submitted and a definitive time line of six months or less is provided. The fee for this final extension shall be \$300 for commercial projects and \$90 for residential projects so long as a new review of some portion of the project is not required. Review fees, if needed, are outlined in Chapter **103**.

(3)

If the project is not substantially complete and/or cannot be completed within six months of the two-year maximum, the applicant shall apply for a new permit (with new document submission) and pay all fees associated with a new permit as outlined in Chapter **103**.

L.

Revocation of building permit. The Building Inspector may revoke a building permit theretofore issued in the following instances:

(1)

Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

(2)

Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

(3)

Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

(4)

Where the person to whom a building permit has been issued fails or refuses to comply with a stop order, as hereinafter defined, issued by the Building Inspector.

M.

Stop-work orders. Whenever a Building Inspector or his designee has reasonable grounds to believe that any work is being prosecuted in violation of the provisions of the applicable zoning or building laws or regulations or other sections of the Town Code, including but not limited to the New York State Uniform Fire Prevention and Building Code, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued or in an unsafe and dangerous manner, he may order the owner of the property or the owner's agent or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all related activities until the stop order has been rescinded. Such

order shall be in writing and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building or area of concern and sending a copy of the same by certified mail to the address set forth in the application for the permit or to the owner's address of record in the Assessor's office. The person to whom a stop-work order has been issued shall report to the Department of Building and Development to determine the corrective action required to get the stop-work order rescinded. If said person desires such information in writing, he may submit a written request and the Department will provide such information in writing within three working days after receipt of the request.

N.

Right of entry. Any building official, upon showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry. However, no such building official may, without the expressed consent of the owner or occupant of suitable age and discretion, enter a residence after a certificate of occupancy has been issued therefor, without having first obtained an order or warrant from a court of competent jurisdiction.

O.

Tests. Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly or the installation thereof does not conform to the requirements of the applicable building laws or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance and/or may request certification by a licensed engineer. The cost of any such tests or certifications and the cost of furnishing proof of such compliance shall be borne by the owner of the property or the person performing the work and in no event shall be borne by the Town of Clifton Park.

P.

Effect. The issuance of a permit shall in no case be construed as waiving any provision of this chapter.

Q.

Fee. The fee specified in or determined in accordance with the provisions set forth in § **103-16**, Building permit fees, must be paid at the time of issuance of a building permit or an amended building permit or for renewal of a building permit.

Zoning > Administration and Enforcement

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11. § **208-16** Conservation Residential Zones.

[Added 5-9-2005 by L.L. No. 5-2005]

A.

Purpose. The district is established to provide and maintain land area to promote and support ongoing open space and agricultural uses and activities to sustain the rural character of this predominantly natural, agricultural and low-intensity residential setting. The purpose of the Conservation Residential (CR) Zoning District is to protect and enhance the rural character, the natural and scenic qualities of open space, and the agricultural heritage, while providing for well-planned new development that complements the traditional settlement pattern, and protects the health, safety, economic base and quality of life in Western Clifton Park for all of its residents.

B.

Objectives:

(1)

New development should complement and harmonize with the traditional, open, rural, wooded, agricultural, natural and environmental resources, low-intensity residential and hamlet landscapes, agricultural lands and working landscapes, and scenic views and resources as valued by the community in Western Clifton Park.

(2)

The district includes lands and resources that the community supports for permanent conservation and protection as agricultural lands and open space lands identified in the public planning process of the Clifton Park Open Space Plan, the Clifton Park Comprehensive Plan, and the Western Clifton Park GEIS. Development projects in this district should contribute to the network of Town-wide, permanently protected open space areas and habitat corridors, both within large parcels of land and among parcels throughout the Town in accordance with the open space vision and criteria set forth in the Clifton Park Open Space Plan, the Clifton Park Comprehensive Plan, and the Western Clifton Park GEIS. Thus, these agricultural and open space lands would be included as Town-wide priorities for conservation, including the application of open space amenity zoning initiatives.

(3)

Development should be sited and laid out using conservation-based design and low-impact design in support of creative solutions to minimize impacts to open space lands and agricultural lands.

(4)

Development should support uses compatible with surrounding land uses and to provide and design for adequate buffering of adjoining properties, particularly between agricultural and residential uses.

C.

Applicability.

(1)

This Conservation Residential Zoning District applies to all parcels shown as located within the bounds of said district on the Town of Clifton Park Zoning Map.

(2)

No parcel as shown on the Tax Map of the Town of Clifton Park in existence as of March 1, 2005, may be changed or reconfigured for the purposes of avoiding the provisions of this section of the Zoning Code.

D.

Permitted uses.

(1)

The following uses are the permitted, principal uses within the CR District, except within the permanent open space:

(a)

Agricultural and forestry uses:

[1]

Farm operations.

[2]

Any form of agriculture or horticulture, provided that such operations are consistent with §§ 150 and 308 of the Agriculture and Markets Law of the State of New York, including the storage, processing and sale of farm products, except for as noted.

[3]

The keeping of livestock or poultry, such as hogs, cows, horses, goats or chickens, with a lot of a minimum of five acres.

[4]

Commercial greenhouses only with a minimum of five acres.

[5]

Roadside stands or other structures for the sale of farm products with a minimum of five acres. Such facilities shall be consistent with the customary activities and operations normally associated with a farm.

[6]

Forestry uses for timber harvesting; no clear cutting.

[7]

Odors, noises, and agricultural implements or chemicals associated with approved best-agricultural-environmental management practices shall be permissible.

(b)

Residential uses:

[1]

One-family dwelling and its accessory buildings.

(c)

Open space uses:

[1]

Open space land.

[2]

Conservation easements: permanent easements and term easements for agricultural, historic, or open space conservation.

(d)

Recreation uses:

[1]

Passive recreation.

[2]

Active recreation if the lands are municipally owned.

[3]

Off-road pedestrian and bicycle trails and paths.

(e)

Utility and other types of potentially necessary uses for the CR District:

[1]

Public utility structures.

[2]

Radio installations, amateur (HAMS), as defined in § **208-95A**.

[3]

All other telecommunication towers on shared sites as defined in § **208-95B**.

(2)

Allowable on the permanent open space. Within the CR District, the following uses are the permitted, principal uses allowed on any lands designated as "permanent open space." When the principal use of preserving the open space or a part thereof is the protection/buffering of natural resources, such as freshwater wetlands, aquifers, steep slopes, mature forests, wildlife habitats or stream corridors, open space uses shall be limited to those which are no more intensive than passive recreation for that approximate portion of open space which warrants protection/buffering.

(a)

Agricultural and forestry uses:

[1]

Any form of agriculture or horticulture, provided that such operations are consistent with §§ 150 and 308 of the Agriculture and Markets Law of the State of New York, including the storage, processing and sale of farm products, except for as noted.

[2]

Lands reserved for agricultural purposes, but not in active production. Such lands may be required to be maintained using best-agricultural / environmental management practices.

[3]

The keeping of livestock or poultry, such as hogs, cows, horses, goats or chickens, with a lot of a minimum of five acres.

[4]

Forestry uses for timber harvesting; no clear cutting.

[5]

Odors, noises, and agricultural implements or chemicals associated with approved best-agricultural-environmental management practices shall be permissible.

(b)

Nature preserve uses:

[1]

Conservation of water, plant, or wildlife habitat

[2]

Nature preserve, wildlife habitat, or open space lands for no active human use

[3]

Off-road pedestrian and bicycle trails and paths.

(c)

Park uses:

[1]

Passive recreation area.

[2]

Active recreation area, if lands are municipally owned and dedicated public active recreation fields (no active recreation facility buildings).

[3]

Off-road, multiuse pedestrian and bicycle trails and pathways, accessible for disabled, otherwise nonmotorized uses, located within the development and creating connections (or leaving opportunities for connections) to existing or proposed pathways or trails in the Clifton Park Open Space Plan and the Clifton Park Trails Master Plan.

[4]

Public building for environmental educational uses, restrooms, and a visitors center, with a maximum of building footprint of 2,000 square feet.

(3)

Other uses and other buildings and structures, as provided by the following sections.

(a)

Only the special uses shall be considered pursuant to § **208-79** et seq.:

[1]

Temporary uses and structures, pursuant to § **208-96**.

[2]

Large concerts, festivals, and events with potential to attract more than 1,000 people in one day.

[3]

Commercial stable.

[4]

Commercial greenhouses on less than five acres.

[5]

Animal clinic/veterinary clinic/office/animal hospital.

[6]

Tack shop.

[7]

Private, public building open to the public for agricultural education purposes, restrooms, visitors center, with a maximum of a building footprint of 2,000 square feet.

[8]

Dwelling, two-family attached or semi-detached.

[9]

Roadside sales, nonagricultural, under the provisions of § **208-100**.

[10]

Home occupation

[11]

Bed-and-breakfast facilities.

[12]

Day care as a home occupation, for children or for adult day care.

[13]

Excavation and removal of stone, sand and gravel.

[14]

Accessory use of a building for nonagricultural uses.

[15]

School.

[16]

Church or other place of worship.

[17]

Cemeteries.

[18]

Electrical substation, gas district governor station, telephone exchange or other public utility building, structure or use, except a business office, storage yard, or repair shop, and subject to the provisions of § **208-79E(2)**.

[19]

Storage of liquefied petroleum (LP) gas in excess of 1,100 gallons.

[20]

Radio installations, amateur (HAMS). See § **208-95A**.

[21]

All other telecommunication towers on shared sites as in § **208-95B**.

[22]

Ground- or pole-mounted solar arrays.

[Added 3-21-2011 by L.L. No. 9-2011]

[23]

Permanent farm labor housing. (Requires an operational, commercial farm with a minimum of 10 acres under production.) Farm workers housed under this section must be integral to farm operations in the determination of the Zoning Officer. The farm employee must be employed on an operational commercial farm, and must be integral to farm operations. Farm employees who work on agricultural operations at least 51% of the time in the year are presumed to be integral to farm operations under this section. Family members of such farm workers may occupy premises constructed under this section.

[Added 5-2-2011 by L.L. No. 11-2011]

[a]

Farm operations holding a special use permit for permanent farm housing shall certify to Building Department that the housing units are occupied by farm employees or family members integral to farm operations, upon request from the Building Department pursuant to procedures developed under this section.

E.

Standards. The following minimum standards shall apply to all parcels in the CR District:

(1)

Base density. The maximum allowable dwelling units that may be built within the CR District shall be a calculated based on the acreage of unconstrained land included in the development parcel(s). The base density of the parcel (the maximum allowable number of units) is the result of dividing the unconstrained land acreage by maximum development density as set forth herein. Applicants may round down fractional units of 0.5 or less and round up fractional units greater than 0.5.

(2)

Development options:

(a)

Development on less than 10 acres. A parcel consisting of less than 10 acres may be developed at a maximum density of one dwelling unit per three acres of unconstrained land. A parcel which is less than three acres but larger than 20,000 feet may be developed with one dwelling unit.

(b)

Development on 10 acres or more. A parcel consisting of 10 acres or more may be developed at a density of one residential dwelling unit per 10 acres, provided there is at least one acre of unconstrained land available to accommodate a residential use, including any required well and septic system. In lieu of development at said density, such parcel may be developed at a density not to exceed 0.33 unit per acre of unconstrained land, provided 50% of the area of the development site is designated as permanent open space pursuant to the other conditions set forth herein. For example, if an applicant owns a seventy-acre parcel, and 10 acres are identified as constrained, the maximum allowable density with a fifty-percent open space set aside is 20 dwelling units. This example is calculated as follows: 70 acres minus 10 constrained acres equals 60 acres of unconstrained land. This 60 acres multiplied by 0.33 results in a maximum allowable base density of 20 units. These 20 units must be placed on the unconstrained sixty-acre portion of the site in this example.

(c)

A one-time, single-lot exception is allowed, meaning a subdivision of one parcel, as it existed as of January 1, 2005, into a maximum of two lots to be used for single-family residential purposes only shall not be required to follow the conservation approach, although it is highly encouraged to be protective of the natural and cultural resources of the community. This shall only be permitted for parcels greater than 10 acres and shall only be allowed if both of the newly created lots will be initially owned by family members, at the discretion of the Planning Board. The newly created lot shall be a minimum of two acres, and all principal buildings shall have a minimum setback of 50 feet from all property lines.

(3)

Minimum permanent open space (land area).

(a)

Where permanent open space is proposed, it must include a minimum of 25% of the unconstrained land of the parcel.

(b)

For any permanent open space, the fee simple title to the permanent open space may be held privately, but for all permanent open space, the area shall be designated on the site and subdivision plat as applicable and shall be so designated on the Zoning Map of the Town of Clifton Park.

(c)

Permanent open space may be held in private ownership, or, if proposed for public ownership, shall be dedicated to the Town of Clifton Park. (See Subsection **G** on proof of preservation in perpetuity of permanent open space.)

(4)

Conservation-based development design. Development of any parcels in the CR District shall comply with the requirements of this Code (conservation design layout), along with the development guidelines in the "Western Clifton Park Design Guidelines" attached hereto by reference.^[1]

[1]

Editor's Note: The Western Clifton Park Design Guidelines are contained in the Western Clifton Park Land Conservation Plan GEIS, on file in the Town offices.

(5)

The minimum land area (lot size) per dwelling:

(a)

With municipal water and sewer: 10,000 square feet.

(b)

With municipal sewer only: 20,000 square feet.

(c)

With municipal water only: 30,000 square feet.

(d)

With no municipal water and sewer: 40,000 square feet.

(6)

Minimum floor area: 960 square feet for a dwelling unit.

(7)

Minimum width of lot at front building line: 80 feet.

(8)

Minimum front yard as is applicable to road character, except as required per § **208-98**:

(a)

A local traffic, subdivision road: 25 feet.

(b)

All other Town or county roads: 75 feet.

(c)

A state highway: 125 feet.

(9)

Minimum rear yards: 25 feet.

(10)

Minimum side yards, each: 10 feet.

(11)

Maximum permitted height: For each foot the height of a building or other structure exceeds 35 feet, the width of each side yard shall be increased by one foot.

(12)

Minimum distance for environmental features consisting of Land Conservation (LC) Zoning District conservation lands and floodplains. No residential dwelling units or on-site wastewater disposal systems shall be located within the bounds of these environmental features. No residential dwelling or wastewater disposal system shall be placed within 50 feet of a wetland meeting federal jurisdictional requirements.

(13)

Conservation design layout.

(a)

Criteria and design process for establishing the permanent open space and siting development on a parcel.

[1]

The following text outlines the procedures for conducting a conservation-based design and layout for site plans and subdivision plans in the Conservation Residential Zoning District. The conservation design layout procedure is as a four-step process designed to assist the applicant, the Planning Board and the public in preparing and analyzing the materials for site plan and subdivision applications within the Conservation Residential (CR) Zoning District.

[2]

The conservation design layout's four-step resource analysis procedure is as follows:

[a]

Develop an existing resources and site analysis plan of the natural, cultural, and scenic features.

[b]

Conduct a conservation analysis and develop the conservation concepts.

[c]

Demonstrate a proposed layout of the development concept that works with and complements the conservation concepts.

[d]

Prepare a summary preliminary plan that shows the synthesized conservation and development concepts.

[3]

The purpose of conducting such a resource analysis is for the applicant to demonstrate significant application and incorporation of the community resource values for Western Clifton Park as developed and presented in the Town of Clifton Park Open Space Plan, the Town of Clifton Park Comprehensive Plan, and the Western Clifton Park GEIS.

(b)

Step [1] Develop an existing resources and site analysis plan of the natural, cultural, and scenic features.

[1]

The purpose of this step is to analyze the unique features of the subject parcel. An existing resources and site analysis plan shall be prepared by the applicant to provide the applicant and the Planning Board with a comprehensive analysis of existing conditions, including the natural, cultural and scenic resources, both on the site in detail as set forth below, and describe in a more general manner land uses, road systems, and natural and cultural resources within 500 feet of the perimeter of the proposed development site. The applicant and the Planning Board must identify the existing site conditions and conduct a site analysis to understand the unique landscape features of the parcel and the relationship of the parcel to the adjoining lands as a basis for advancing any proposed

permanent open space and proposed development area concepts for the Planning Board to consider.

[2]

The existing conditions and site analysis process shall include analyses of physical and environmental resources, forest resources, agricultural resources, historic and cultural resources, and potential as passive and recreational resources. The analysis may take the form of several maps and layers of data presented in a meaningful way to the Planning Board for its review and decision-making in conjunction with the applicant.

[3]

The following resources must be mapped and illustrated for the review of the Planning Board:

[a]

All contiguous land owned or under option by the owner and/or applicant.

[b]

Contour lines at a minimum of two-foot intervals to United State Geological Survey datum within the parcel.

[c]

Slopes in excess of 20% or more, measured over a fifty-foot horizontal distance.

[d]

Ridgelines, hills and geologic formations, including but not limited to rock outcrops and other important land features based on available published information or more detailed data obtained by the applicant.

[e]

Watershed boundaries shall be identified.

[f]

Groundwater aquifers and/or recharge areas as mapped on the Town's Official Aquifer Protection Map.

[g]

Lakes, ponds, regulated streams, streams, and natural drainage swales.

[h]

Field delineation and survey of both NYS Department of Environmental Conservation freshwater wetlands and their associated one-hundred-foot adjacent areas, and federal jurisdictional wetlands as regulated by the U.S. Army Corps of Engineers.

[i]

Watercourses, streams and other drainage corridors as classified pursuant to the New York State Department of Environmental Conservation Stream Classification System and as mapped on the Town of Clifton Park's Official Stream Protection Map.

[j]

The Town of Clifton Park Land Conservation (L-C) Zones.

[k]

Flood hazard areas [from a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map], or site-specific flood elevation determination data if none is available otherwise through FEMA.

[l]

Vegetative cover conditions on the property according to general cover type, including cultivated land, permanent grassland, old field, hedgerow, significant forest areas, woodlands, wetlands, isolated trees or small groups of trees with a caliper in excess of 12 inches, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, age and condition.

[m]

Any designated critical environmental area, and other important unique environmental areas.

[n]

Habitat areas of rare, threatened or endangered species.

[o]

Agricultural lands: active farmland within a New York State certified agricultural district in Saratoga County, lands within 500 feet of a New York State certified agricultural district, or soils classified as soils of statewide significance and prime farm soils as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the Saratoga County Soil Survey.

[p]

Lands and parcels enrolled in the Town of Clifton Park's term open space, agricultural, or historic resources term conservation easement program.

[q]

Lands identified along scenic road corridors as defined in the Town of Clifton Park Open Space Plan, Town of Clifton Park Comprehensive Plan, and the Town of Clifton Park Western Lands GEIS.

[r]

As located on the site, the location and dimensions of all existing and proposed utilities and utility rights-of-way, existing streets, paved and unpaved roads and paths, buildings, agricultural barns, silos and any other agricultural structures, utilities, remains of buildings and structures, stonewalls, fences, and other man-made improvements.

[s]

Historic resources. Locations of all historically significant sites or structures on the site and on any abutting site within 500 feet of the site's property boundary, including but not limited to those sites and parcels identified as locally important historic resources in the Town of Clifton Park Open Space Plan, the Town of Clifton Park Comprehensive Plan and the Town of Clifton Park Western Lands

GEIS, and according to the New York State Office of Parks, Recreation and Historic Resources, State Historic Preservation Office, that tracks sites, buildings and parcels identified with the state register or the federal register historic designation.

[t]

Proximity to nearest hamlet or other existing or proposed neighborhood.

[u]

Trails: existing and potential trails, bikeways and pedestrian trails that are in public use or are proposed conceptually in the Town of Clifton Park Open Space Plan, or specifically on the Town of Clifton Park Town-wide Trails Master Plan Map, on the Mohawk Towpath Scenic Byway, or other routes of Town, state, federal, or Saratoga County significance.

[v]

Recreation. Lakes, ponds, active public parks, Town park district lands, or other Town, county, and state recreational areas, or opportunities or sites designated in the Town of Clifton Park's Comprehensive Plan.

[w]

All other boundaries of environmental or other areas to be left undisturbed and/or protected through deed restrictions, conservation easements or other agreements and encumbrances of property which are or have been filed of record with the Saratoga County Clerk's office shall be shown on the plan.

(c)

Step 2. Conservation analysis and prioritizing of conservation concepts.

[1]

Once the site analysis has been accomplished and reviewed with the Planning Board, the applicant may develop concepts for prioritizing which of the existing resources should be conserved and for what proposed future conservation use. Only after this step has been taken may the concepts for development be factored into the site layout.

[2]

Below are the key conservation principles for Western Clifton Park to assist in prioritizing conservation concepts within the CR District:

[a]

Conserve the scenic, rural landscape character: the unique setting of this parcel as it contributes to the unique setting of Western Clifton Park.

[b]

Conduct creative site planning that maintains residential and pastures and rural character allowing for direct visual access to open land, woodlots, farms, scenic views, etc.

[c]

Protect farms and agricultural lands and uses; protect the core agricultural areas of Western Clifton Park; protect prime farm soils.

[d]

Permanent protection of larger contiguous areas of significant open space resources which are visible to the general public. including farmlands, woodlands, and other ecological and natural wildlife habitats and corridors.

[e]

Buffer and protect existing protected open space resources: design that respects and buffers existing term conservation easements, permanent conservation easements and other permanently protected lands and resources, such as not but not limited to the Grooms Tavern Site, the Vischer Ferry Historic and Nature Preserve, including the remains of the Erie Canal, and the Mohawk Towpath Scenic Byway.

[f]

Conserve and protect the Town-identified open space, natural and cultural resources that are priorities for future conservation.

[g]

Conserve and design with respect to the existing hamlet settlement patterns, existing neighborhoods and existing residences; buffer existing residences and public views from new development.

[h]

Preserve natural water features and watersheds and provide for connected water habitats

[i]

Protect natural landforms and conserve open lands habitat.

[j]

Conserve woodland areas and connected woodlands habitats.

[k]

Support the restoration and adaptive reuse of previously developed landscapes, including the adaptive reuse of farm structures that preserves the agricultural setting and uses such as the farmstead and barns and surrounding fields.

[l]

Connect people to the special resources; provide trail connections within neighborhoods and link to regional paths.

[m]

Protect dark, nighttime skies for the whole community.

(d)

Step 3. Development concept. Once the proposed conservation lands have been identified in Step 1 and prioritized in Step 2, this Step 3 is to identify the area for development [primarily within the unconstrained land and protective of the priority conservation area(s)], the remaining land area of the site which may

be focused on for siting the access, circulation for streets and pedestrian paths, and locating the proposed number of residential units and other development.

(e)

Step 4. Summary preliminary plan of development and conservation concepts. The proposed subdivision application must follow applicable subdivision regulations as outlined in Chapter **179** regarding the submission, timing, review process, etc. This step involves formalizing the "drawing in" of the lot lines and the preparation of a plan meeting requirements for concept submission pursuant to Chapter **179** of the Town Code, Subdivision of Land.

F.

Proof of preservation in perpetuity of permanent open space for sites in private ownership.

(1)

Perpetuity. For all required, dedicated permanent open space, the open space restrictions must be in perpetuity and shall be so noted on any plat or plan submitted for approval to the Town.

(2)

Type of proof required. A deed restriction or a permanent conservation easement must be placed on the parcel and/or lot(s) with permanent open space.

(3)

The proof of such restriction of open space land in perpetuity is required and shall be supplied to the Town of Clifton Park Planning Board and filed prior to the final plat approval of a site plan or subdivision plat.

(4)

The Town of Clifton Park Planning Board may not grant final approval to any site plans or subdivision plats that require permanent open space, until the Planning Board receives the proof of the restriction on the open space land of a permanent conservation easement.

(5)

The Planning Board may not approve a final plat until the proof is presented at a Planning Board meeting.

(6)

A perpetual conservation easement and/or other rights to property which have the minimum effect of restricting development of the open space land and allowing use only for agriculture, forestry, active or passive recreation, watershed protection, wildlife habitat or other open space use and prohibiting residential, industrial and/or commercial use of such open space land, pursuant to § 247 of the General Municipal Law, shall be granted to the Town of Clifton Park, or to a qualified, not-for-profit land conservation organization or land trust as may be acceptable to the organization, municipality and to the Planning Board.

(7)

The type of conservation easement may be site-specific and customized according to the proposed use of the open space land, and selected from the following options: open space conservation easement, environmental conservation easement, agricultural conservation easement, or historic resources conservation easement.

(8)

The aforesaid conservation easement instrument shall describe the open space land of a parcel in metes and bounds and by a property survey, and shall bear the statement: "This tract or parcel of land is open space land with a permanent conservation easement subject to the provisions of the Town of Clifton Park Zoning Law substantially restricting its use."

(9)

Open space created by the use of this section must be clearly labeled on the final plat and site plan as to its use, ownership, management, method of preservation and the rights, if any, of the owners of the subdivision to such land, and to the general public. The plan or plat shall clearly show that the open space land is permanently reserved for open space purposes and shall not be platted

for building lots and shall indicate the liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations.

(10)

Such proposed conservation easement or other rights shall be reviewed and approved by the Town Attorney's office and be required as a condition of plat or plan approval.

(11)

Said conservation easement shall not be amendable to permit commercial, industrial, or residential development and shall be recorded in the Saratoga County Clerk's office prior to filing an approved final site plan or final subdivision plat in the CR Zoning District.

G.

Ownership and maintenance of open space land and common facilities. The Planning Board must find the form of ownership of any open space land adequate to fulfill the purposes of this section. The following methods may be used either individually or in combination, for ownership of open space land (exclusive of its conservation easement) and common facilities. The appropriate form of ownership shall be based upon the purpose of the permanent open space reservation as stated above in the Subsection **F**, entitled "Proof of preservation in perpetuity of permanent open space." Ownership methods shall conform to the following:

(1)

Open space land may be held in private, noncommon ownership.

(a)

The required open space land may be included within one or more large conservancy lots that are entirely open space land, provided the open space is permanently restricted from future development, except for those uses listed above in Subsection **D(2)**. This option may be preferable for open space land that is intended for agricultural use.

(b)

The applicant shall provide the Town of Clifton Park with a written description and proof of instrument of the use restrictions of the open space land.

(2)

Open space land may be held in private, common ownership by a homeowners' association (HOA).

(a)

Open space land and common facilities may be held in common ownership by a homeowners' association subject to all of the provisions for homeowners' associations as set forth in New York State regulations and the General Business Law.

(b)

The open space restrictions must be in perpetuity.

(c)

The applicant shall provide the Town with a description of the organization of the proposed homeowners' association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

(d)

Such a homeowners' association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the conveyance of the first lot in the development.

(e)

The HOA must be responsible for liability insurance, local taxes, and the maintenance of any open space land and any other common facilities.

(f)

Membership in the homeowners' association shall be mandatory for each property owner within the subdivision and successive owners in title with voting of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units.

(g)

Each lot or unit owner must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance and maintenance of open space, and, as applicable, any private roads and any other common facilities.

(h)

Property owners must pay their pro rata share of the HOA costs as listed above in Subsection H(2)(e), and the assessment levied by the HOA must be able to become a lien on the property.

(i)

The bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.

(j)

The HOA must be able to adjust the assessment to meet changed needs.

(k)

The applicant shall make a conditional offer of dedication to the Town of Clifton Park, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon failure of the homeowners' association to take title to the open space from the applicant or current owner, upon dissolution of the association at any future time or upon failure of the HOA to fulfill its maintenance obligations or to pay its property taxes.

(l)

Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by

proceeding against individual owners in the HOA and the dwelling units they each own.

(m)

Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Town of Clifton Park no less than 30 days prior to such event.

(n)

The association shall have adequate resources to administer, maintain, and operate such common facilities.

(o)

The Town Attorney's office shall review and find that the HOA documents presented as part of the application satisfy the conditions outlined above and such other conditions that the Planning Board shall deem necessary.

(3)

Open space land may be offered fee simple dedication to the Town or an open space or park district controlled by the Town, provided that:

(a)

There is no substantial cost of acquisition to the Town.

(b)

The Town agrees to and has access to maintain such open space.

(c)

Such facilities for public use shall be accessible to residents of the Town.

(4)

Open space land may be offered for conveyance or for sale as fee simple dedication to the county or state governments, a nonprofit land trust or other land conservation organization.

(5)

Maintenance and monitoring standards for open space land.

(a)

Ongoing maintenance and monitoring standards shall be established, enforceable by the Town against an owner of open space land as a condition of site plan or subdivision approval, to assure that the open space land is used for the purposes intended in this chapter and specifically pursuant to the approval of the project rendered by the Town and to ensure the use of the open space land does not detract from the character of the neighborhood context. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character and to maintain dedicated trails.

(b)

If the Town Board finds that the open space land is being maintained in such a manner as to constitute a public nuisance or otherwise not in conformance with standards established herein, it may, upon reasonable written notice to the owner, enter the premises for necessary maintenance or other action necessary and appropriate, and the cost of any such maintenance by the Town shall be assessed ratably against the owner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

(c)

Unless otherwise agreed to by the Town of Clifton Park Planning Board, the cost and responsibility of maintaining open space and facilities shall be borne by the private owner, the homeowners' association, the conservation organization or land trust or, in the case of lands and facilities deeded to the Town of Clifton Park, the municipality. Likewise, if any lands restricted as open space land are deeded to the county or the state, these respective municipal governments would be responsible.

H.

Open space incentive zoning option. (See Article VB Open Space Incentive Zoning.)

(1)

In exchange for the protection of an equivalent acreage of permanent open space under the provisions of Article VB entitled "Incentive Zoning," Town of Clifton Park, open space incentive zoning, a parcel or parcels greater than 10 acres in area may be developed at a density of up to one residential unit per 1.5 developable acres or 0.66 unit per acre, provided that development also meets the following conditions and limitations.

(a)

Increases in dwelling unit density shall not exceed allowable base density by more than 100%.

(b)

Community open space benefits or amenities may only be located within the CR District.

(2)

For example, if the base density of a one-hundred-acre site in the CR District is 33 dwelling units, then the maximum density that can be potentially achieved by applying for open space incentive zoning is 66 dwelling units.

(3)

Application for open space incentive zoning must be done prior to or in conjunction with an application for subdivision approval to the Planning Board.

I.

Site plan and subdivision review. Applications will be considered and processed by the Town of Clifton Park Planning Board in accordance with § 278 of the Town Law, Article **XVI**, Site plan review and approval, Chapter **179**, Subdivision of Land, and the Town of Clifton Park Design Guidelines.^[2] As part of that

process, the Town of Clifton Park Planning Board shall, at a minimum, apply the limitations and conditions of this section.

[2]

Editor's Note: The Park Design Guidelines are contained in the Western Clifton Park Land Conservation Plan GEIS, on file in the Town offices.

Zoning > Residential Districts