

Chapter 139

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[HISTORY: Adopted by the Town Board of the Town of Vernon 8-22-2007.¹ Amendments noted where applicable.]

GENERAL REFERENCES

**Planning Board and Zoning Board of Appeals — See Ch. 8, Art. I.
Fire prevention and building construction — See Ch. 64.
Flood damage prevention — See Ch. 68.
Individual sewage disposal systems — See Ch. 106.**

**Part 1
General Provisions**

**ARTICLE I
Purpose and Definitions**

§ 139-1. Purpose.

The general and overall intent of this chapter is to promote the health, safety, and welfare of the community. Further purposes of this chapter are:

- A. To minimize conflicts from incompatible uses.
- B. To secure from fire, flood, panic and other hazards.

1. Editor's Note: This ordinance superseded former Ch. 139, Zoning, adopted 4-6-1981, as amended.

- C. To provide adequate light and air.
- D. To prevent overcrowding of land.
- E. To prevent undue concentration of population.
- F. To lessen congestion in the streets.
- G. To provide a variety of use districts within the Town to accommodate a diversity of residential densities and types.

- H. To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks and other service requirements.
- I. To encourage the most appropriate use of the land based on its natural characteristics.
- J. To protect important natural and scenic resources such as lakes, streams, wetlands, aquifers, historical sites and agricultural land.
- K. To preserve the quality of natural resources, including air, water, soil, and vegetation.
- L. To maintain and enhance the rural character and viability of agriculture and agribusiness of the Town.

§ 139-2. Definitions.

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

ACCESSORY FACILITY OR STRUCTURE — An accessory facility or structure serving or being used in conjunction with a telecommunications tower, and located on the same lot as the telecommunications tower, including utility or transmission equipment storage sheds for cabinets.

AD-HOC COMMITTEE — An advisory board consisting of residents appointed by the Vernon Town Board to address planning and zoning issues on a case-by-case basis. Its role is to coordinate with professional planners, oversee compliance with the Comprehensive Plan, and adjust planning and zoning issues according to changing land use trends and conditions.

AGRICULTURAL DISTRICT — Article 25-AA of the Agriculture and Markets Law of New York State authorizes the creation of local agricultural districts pursuant to landowner initiatives, preliminary court review, state certification, and county adoption. Agricultural districts protect farming from overly restrictive local laws, government funded acquisition on

construction projects, and private nuisance suits involving agricultural practices.

AGRICULTURAL TAXING DISTRICT — A special agricultural district that provides a "use value" assessment for eligible farmland (e.g., agricultural exemption and special benefit exemption). This allows farmland to be taxed for its agricultural value rather than its market value (i.e., non-farm development value). Any owner of land used for agricultural production may qualify to be included in an Agricultural Taxing District if the land meets the requirements of New York State Real Property Tax Law or is rented to an eligible farm operation.

AGRICULTURAL ZONING DISTRICT — An agricultural zoning district is a district formed by the Town for the purposes of accommodating agricultural land uses. The district is one of several zoning districts in the Town, but is intended to provide a means for protecting economically viable farming activities from incompatible land uses.

AGRICULTURE — The science, art, business, and industry of cultivating soil, producing crops, and raising livestock and equestrian animals; farming as defined by the New York State Department of Agriculture and Markets.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or the enlargement in height or area; or the moving from one location to the other.

ANIMAL BOARDING/BREEDING FACILITY — A primary or accessory use where domestic or farm animals are harbored overnight for compensation and are provided with basic supervision and care (food, sleeping and waste disposal areas). Common examples of this use include dog breeders and private or public horse stables. This land use may include facilities and area for grooming, training, riding, or shows.

ANIMAL CARE/TRAINING FACILITY — A primary or accessory use where domestic (for example, dogs and cats)

animals are temporarily present for nonmedical care (grooming or training programs) such as dog obedience; companion, Seeing Eye, or rescue instruction, or competitive skills activities (hunting, retrieving, racing). This land use may include ancillary sale of retail products and/or areas for shows. The definition excludes facilities for the boarding or breeding of animals.

ANIMALS — This chapter recognizes and addresses three basic categories of animal that are relevant to control within the scope and purpose of this chapter: domestic, farm and exotic or wild animals.

- A. **DOMESTIC ANIMALS** — Those species that have historically been bred to live with people and are commonly trained and associated with people's homes or places of work as pets or as (non-farm) working companions; these are dogs and cats. Other animals that have a historical presence as pets are some nondomesticated species that are maintained within glass tanks, cages or similar display containers and include tropical fish, birds, small reptiles (turtles, frogs, lizards), and small rodents (hamsters, gerbils, mice and rats). Note: These nondomesticated animals are commonly available from retail pet stores, and supplies and food for their care are generally available in general merchandise outlets, such as grocery or department stores.
- B. **FARM ANIMALS** — Those species that have historically and commonly been associated with agricultural uses as the production product (food, hides, fur, etc.) or as work animals directly related to agricultural process (hauling, plowing, etc.). Typical farm animals include horses, cows, chickens, sheep, and pigs. Other animals such as llamas, emus, alpacas, and rabbits are included if they are associated with agricultural uses as defined by Article 25-AA of the Agriculture and Market Law. Some species of fish are also raised in aquatic farms, such as salmon, catfish, and trout. An agricultural use may be devoted solely to animal breeding for sale and end use by others,

such as horses that are used for recreational purposes (racing, riding, or show).

- C. **EXOTIC (WILD) ANIMALS** — Those species that are indigenous or nonindigenous wild animals captured or bred in captivity and typically are not acclimated through selective breeding to regular human contact. Though individual animals of many species have been domesticated for such human purposes as education (zoos, teaching facilities), entertainment (theater, circus shows) or even as pets, they are not considered to be domestic or farm animals. Examples include large animals: monkeys, apes, lions, tigers, wolves, alligators, and boa constrictors. Small animals include falcons, hawks, squirrels, and raccoons. Some animals, such as ferrets, may require special licensing from New York State to be sold or maintained as pets. Due to the size, characteristics, or nature of some of these animals, they remain potentially harmful to humans and require special care and monitoring even when domesticated.

ANNEXATION — The legal incorporation of some territory into another adjacent or contiguous entity (e.g., city to town, village to town).

ANTENNA — A system of electrical conductors that transmits or receives radio frequency signals. Such signals shall include, but are not limited to, radio, television, cellular, paging, personal communications services (PCS) and microwave communications.

- A. **CONVENTIONAL TELEVISION OR RADIO ANTENNA** — Any receiving antenna other than a satellite antenna.
- B. **DISH ANTENNA** — See "antenna."
- C. **SATELLITE ANTENNA** — Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio,

light, microwave or other electronic signals, waves and/or communications from space satellites.

APARTMENT — A dwelling unit in a modified single-family unit, duplex, multiple-family dwelling or mixed-use occupancy building.

APARTMENT BUILDING — See "dwelling, multiple-family."

ARTERIAL STREET — A street which serves or is designed to provide for intercommunity traffic movement or to move larger volumes of traffic from one area to another.

ASSISTED-LIVING FACILITY — See "nursing home/assisted-living facility."

AUTO BODY REPAIR — See "motor vehicle sales, service, and rental."

BANK/CREDIT UNION — See "retail use."

BANQUET FACILITY — A facility to provide food and entertainment for such activities as weddings, parties, and banquets. [Added 9-10-2012 by L.L. No. 3-2012]

BED-AND-BREAKFAST RESIDENCE — A type of home occupation in an owner-occupied, single-family residence offering overnight lodging for guests or tourists and may include dining facilities limited only to the overnight guests.

BUFFER — See "perimeter landscape strip."

BUILDABLE AREA — The area within a lot eligible to be built upon or occupied by structures and/or land use activities that is bounded and established by the required front, side and/or rear building lines set forth in the zone district requirements or supplemental regulations.

BUILDING — A type of structure wholly or partially enclosed within exterior walls and a roof to be used for sheltering people, animals, property, business or other activities. Structures divided with interior walls extending from the foundation

through to the roof shall generally be considered separate buildings. Common examples include houses, garages, factories, barns, and mobile homes. Fences, signs and temporary structures, such as tents, are not buildings.

BUILDING, HEIGHT OF — The vertical distance as measured from the average elevation of the proposed finished grade (ground surface) at the front of the building or of a structure to the highest point of the building or the structure, which highest point shall include, but not be limited to, the highest or topmost point of the roof, together with all towers, chimneys, penthouses, signs, tanks, elevators or stair bulkheads, mechanical equipment, and/or light poles.

BUILDING LINE — A line or lines determined by zone district setback requirements, parallel to the property lines and establishing the closest points that a structure may be placed within a property.

BUILDING LINE WIDTH — See "lot width."

BUILDING PRODUCT SALES, STORAGE AND DISPLAY — A retail or wholesale use where lumber, construction supplies, and similar products are sold, displayed for sale or stored. Materials may be stored and activities may be conducted in exterior open areas.

BULK STORAGE — The commercial development of land to be used or occupied by structures, equipment, vehicles, or storage areas designed to hold and distribute large quantities of material. Examples include petroleum products, fuels, and potentially hazardous chemicals.

CASUAL SALE OF MOTOR VEHICLES — The display for sale of not more than one operable motor vehicle at any one time and not more than four operable motor vehicles in any one calendar year by the titled owner on or from property utilized for residential purposes and owned or occupied by the titled vehicle owner, which display and sale is not in connection with the conduct of any business.

CELL TOWER — See "utility substation."

CEMETERY — Land improved and maintained for the interment of human or animal remains and may include interment structures, such as mausoleums, administrative and

maintenance structures and facilities for conducting funeral services, but excludes facilities for the cremation of human or animal remains.

CLERK OF THE PLANNING BOARD — That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of these regulations.

CLUSTER DEVELOPMENT — A development style that encourages a higher density of dwellings per acre on a portion of a development site while maintaining overall density allowed under zoning with the intent of retaining open space areas.

CODE ENFORCEMENT OFFICER (CEO or ZEO) — See "Zoning Enforcement Officer (ZEO)."

COLLECTOR STREET — A street which serves or is designed to serve as a trafficway for a neighborhood or to collect traffic from local streets and conducts it to arterial streets.

COMMUNICATION TOWER — See "utility substation."

COMMUNITY CENTER — A facility under the direct supervision and control of a charitable, religious, social service or similar not-for-profit civic organization designed and used as a place of assembly for religious, social, recreational or educational programs and meetings for the general public. A center may contain incidental food facilities. It shall exclude private clubs and any facilities to house or lodge overnight guests.

COMPREHENSIVE PLANNING — The processes engaged in and developed by the Town to formulate and/or implement immediate and long-range objectives for the enhancement and development of the Town. These processes include the accumulated case actions, analyses, policies, studies, reports with or without maps and may or may not be formally adopted by the Town.

CONSERVATION SUBDIVISION — A housing development in a rural setting that is characterized by compact lots and

common open space, and where the natural features of land are maintained to the greatest extent possible.

CONSOLIDATION — The combining of one or more parcels of land. See also "subdivision."

CONTRACTOR'S SERVICE YARD — Land or structures serving as the base of operations for building trades contractors, trucking or heavy equipment operators or similar professions. Examples include irrigation and well-drilling services, plumbing contractors, or landscape contractors. Such uses may include related offices; storage areas for equipment, materials, and job-site trailers; and service areas for equipment. This use excludes on-site retail or wholesale sales, or the storage and/or servicing of merchandise, vehicles or equipment unrelated to the contracting business.

CONVENIENCE STORE — A small retail store offering roadside convenience that is less than 2,000 square feet in retail floor and contains up to four stations for simultaneously fueling four vehicles at one time. Convenience store containing five or more stations for simultaneously fueling four vehicles at one time shall be called a "motor vehicle service station."

CORNER LOT — A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of intersection of less than 135°. The wider ROW frontage of a corner lot shall be the front of the lot. Front yard setbacks on corner lots shall be governed by the most restrictive setback and corner lots shall have two equal front yards at the road line (e.g., highway ROW line). A corner lot shall have one side yard and one rear yard established in relation to that front yard. (See also "lot, three-sided.")

COUNTRY STORE — The purpose of a country store is to provide opportunities for agricultural enterprises located in the Town to retail their products directly to consumers. Agricultural products grown or otherwise produced by the owner must constitute a substantial portion of all items sold at a country store. The sale of other related items of an agricultural or country nature is permitted to attract customers

and promote the sale of the owner's agricultural products. Such related items include produce, plants, lawn and garden supplies, pet food, baked goods, ice cream, clothing items promoting the store and the like. Prohibited sales include vehicles, petroleum products, hardware, tobacco products, beer and liquor, nonpromotional clothing, furniture, sporting goods, farm or garden machinery, and other items not related to and designed to promote the agricultural nature of the establishment. With the exception of serving food composed primarily of ingredients produced on the owner's farm, such facility shall not include an indoor restaurant.

CREMATORY — A building with incinerators or furnaces used to reduce human or animal remains to a dust or gravel-like material. The use shall exclude space for the storage or burial of remains. (See also "cemetery.")

CROPLAND — Land without any buildings used for the commercial production of agricultural products, such as corn, wheat, vegetables, ornamental plants, or fruit. It may include minimal improvements and/or structures, such as fences or irrigation systems.

CROSS ACCESS — An easement or service drive providing vehicular access between two or more contiguous sites so that the driver does not need to reenter the public street system (Access Management Manual, 2003).

DANCE STUDIO — See "instructional facility."

DAY-CARE CENTER — A land use in which care and supervision of (at least three or more) minors (children) or dependent adults is provided on a daily or regularly programmed basis outside of their place of residence. Care for each person is for less than a period of 24 hours and may occur during any part of a day. Examples of activities which are day-care facilities under this code include nursery schools, preschool programs, after-school programs or day-care centers, and senior day-care facilities.

DEAD-END STREET or CUL-DE-SAC — A street or a portion of a street with only one vehicular traffic outlet.

DISTRICT, ZONE — See "zone district."

DRIVE-IN SERVICE — An accessory or primary land use that is a facility from which customers conduct any business, secure consumer goods or services, and such goods and services are dispensed for use or consumption either off-premises or while the customers remain in their motor vehicles. This facility may be a mechanical device, a service-type window, or a kiosk attached to or detached from a principal building. This definition includes facilities commonly referred to as "drive-in or drive-through banks," "drive-in restaurants and movie theaters," "ATMs (automatic teller machines)," and "drive-up kiosks." This definition specifically excludes gasoline service stations, car washes, and similar motor vehicle services where the vehicle is the object of the retail service; it also excludes designated vehicle loading areas accessory to retail or wholesale uses.

DUMP — A lot, or land, or part thereof, used primarily for the storage or disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING (DU) — A house, apartment building or other permanent building designed or used primarily for human habitation.

DWELLING, MULTIPLE-FAMILY — A building designed for and occupied as a principal use by three or more dwelling units.

DWELLING, ONE-FAMILY — A building containing only one dwelling unit, and occupied by only one family.

DWELLING, TWO-FAMILY — A building containing only two units, and occupied by only two families.

DWELLING UNIT — A complete self-contained residential unit that provides complete, independent living facilities for one

or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A single unit is intended for use by one traditional family as defined by the U.S. Bureau of the Census.

EASEMENT — Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

EMERGENCY VEHICLE STATION — The use of land, structures or facilities to store, care and operate emergency rescue, fire, or ambulance services. It may include space for vehicles, equipment, and personnel.

ENGINEER or LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.

EPA — The Environmental Protection Agency.

EXCAVATION/MINING USE — Land used for the removal and transfer of sand, gravel, rock or stone, topsoil or earth and similar substances from their original or natural locations to a different property. Examples include borrow pit, gravel or sand pit or mine. This definition shall exclude the removal of such substances incidental to the construction or the operation of a principal use and when the removed substances are redistributed on the original site or disposed of in accordance with a method approved by the Town.

EXHIBIT HALL — A facility designed for the assembly of large numbers of people to attend meetings, lectures, conventions, or commercial product shows. It may include areas for the consumption of food, classrooms, auditoriums, and offices. It excludes facilities for and the conducting of sporting events and recreational activities.

FAA — The Federal Aviation Administration.

FAMILY — One or more persons occupying the premises and living as a single housekeeping unit with common use, care and access to living and sleeping areas with shared cooking, eating

and toilet facilities as distinguished from a group of individuals occupying specified rooms and without common access, use, or care of the entire dwelling, such as within a boarding- and rooming house, motel/hotel, dormitory, fraternity/sorority, club or hospital/nursing home.

FARM — Land occupied for the commercial production of field crops, fruits, vegetables, ornamental plants, livestock and livestock products, woodlands or similar products. A farm may include one or more noncontiguous properties, but the primary farm properties (those occupied by a farm residence, farmstead, or any other farm-related structures) shall meet the zone district's minimum dimensional standards. A farm typically includes buildings, structures and outdoor areas for the storage, distribution, use of fuel, supplies, equipment, and raw agricultural products and may include buildings used for residential purposes; the term includes facilities to process, cook, and mill or transform raw agricultural products into retail consumer goods. (See also "cropland" definition; for retail sale, see "farm stand.")

FARM STAND — An incidental and subordinate activity of a farm, nursery or greenhouse involving a building or lot or portions of a building or lot used for the seasonal retail sale of agricultural products, and may include activities in which retail customers pick or select their own produce from the fields or growing areas. A farm stand sales area may be one or more noncontiguous spaces within a property and shall be greater than 100 square feet. A total sales area of 100 square feet or less does not constitute a farm stand.

FCC — The Federal Communications Commission.

FLAG LOT — A parcel of land shaped like a flag; the staff is a narrow strip of land providing vehicular and pedestrian access to a street, with the bulk of the property lying to the rear of other lots; or an irregularly shaped lot with at least two major portions, a nondevelopable narrow area abutting a right-of-way connected to the larger developable area surrounded by other lots, conforming in all other respects to the district lot and setback requirements. The undevelopable portion of the lot

shall be maintained clear of all structures and have a minimum width of 30 feet.

FRONT YARD — See "yard, front" (applicable to other derivations, e.g., front yard depth, front yard width).

FUNERAL HOME — A building or portion of building designed and occupied for the preparation of deceased persons or animals for burial and for the arrangement and management of burial ceremonies; the use commonly includes accommodations for people to congregate and hold ceremonies and includes the terms "funeral parlor" or "undertaker." The term excludes facilities for the cremation of human remains or animals. (See "personal service use.")

GASOLINE SERVICE STATION — A building, structure or area of land used primarily for the servicing of motor vehicles. It shall primarily include facilities for the retail sale and dispensing of motor fuels and petroleum products, goods and services generally required in the operation and maintenance of motor vehicles, sale and servicing of tires, batteries, automotive accessories and replacement items; lubrication services and the performance of routine automotive maintenance and repairs. It may include areas for the retail sale of items such as prepared foods, groceries, magazines, household or personal care items (not to be considered a convenience store or service station).

GASOLINE STATION, LIMITED-USE — A retail gasoline sales facility consisting solely of gasoline pumps, a shelter for station personnel, an overhead canopy, underground gasoline storage tank(s) and typical associated fire suppression and environmental protection equipment. Except for retail gasoline sales or vehicle washing, no other vehicle-related services shall be provided. It may include incidental sale of materials or merchandise, such as prepared food, magazines, household and personal items. A limited-use gasoline station may be considered, when found appropriate by a reviewing board, to be a secondary use (not to be considered a convenience store or service station).

GRAPHIC PLAN — Drawing(s) of a site offering a depiction of how a site exists or is proposed to be modified. The graphic plan typically accompanies the submission application or documentation for a zoning approval and will be drawn to scale and include details specified by the Town.

GREENHOUSE, ACCESSORY — An accessory structure for a residential, nonresidential or commercial land use that is typically enclosed with glass, plastic or similar materials and which may be used for personal enjoyment and/or the noncommercial production of plants.

GREENHOUSE, COMMERCIAL — A structure typically enclosed with glass, plastic or similar translucent materials within which agricultural or horticultural products are grown for retail or wholesale sale, and includes appropriate areas for parking, loading and storage, office and customers.

GROSS FLOOR AREA — The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. In addition to areas primarily used for human occupancy, the term also includes basements, elevator shafts, stairwells and any floor space (attics, penthouses, mechanical rooms) with structural headroom of six feet, six inches or more.

HAMLET — A small settlement or cluster of mixed land uses too small to be considered a village or below the population threshold to be incorporated as a village.

HAZARDOUS MATERIAL STORAGE — A facility designed, constructed, and maintained to safely store and distribute materials considered hazardous in normal use. Examples include ammunition, explosives, and chemical waste.

HEARING, INFORMATIONAL — An informal process that may be required by this code or may be optional by a reviewing board; its primary purpose is to disseminate and present information to the public. The reviewing board shall establish the notification requirements and conduct of the meeting.

HEARING, PUBLIC — A formal process required by NYS law and/or this code; its primary purposes are to provide information to the public and to solicit opinions and comments from the public. New York State law, this code and/or Town policy stipulate notification requirements.

HEAVY EQUIPMENT SALES, SERVICE AND STORAGE — A use where construction, farm or similar large equipment and machinery may be sold, stored, displayed or serviced. Such activities may be conducted in open areas outside of any structures.

HOME OCCUPATION — Any personal or professional service, trade or occupation conducted within a dwelling by any member of the family residing in the unit, which use is incidental to the primary use of the property for residential purposes. A home occupation shall not change the residential character of the unit.

HOSPITAL/CLINIC — An institution specializing in giving medical, surgical or rehabilitation treatments to persons on an in- or out-patient basis, and may include lodging and dining facilities for the patients and staff.

INDOOR RECREATION - PARTICIPANT — A principal use of structure for individual or small-group sporting events or recreational activities, such as indoor tennis courts, bowling alleys and athletic clubs. Such facilities are designed for the direct use and participation of most of the attendees, and may include minimal spectator facilities.

INDOOR RECREATION - SPECTATOR — A principal use of structure for individual or team sporting events or recreational activities, such as indoor soccer fields and basketball courts. Such facilities are designed for the direct use and participation of some of the attendees, and include substantial spectator facilities.

INFILL DEVELOPMENT — Development of vacant land or use of existing vacant buildings within an area that is largely undeveloped. Infill projects may range from the construction of

a new house on a vacant lot in an existing subdivision to a new commercial building on a vacant lot in the Town commercial center.

INFRASTRUCTURE — The various public and private systems and facilities necessary to support the functionality of a community (e.g., sewer and water, electric, communication lines, roads, railroads, etc.).

INSTRUCTIONAL FACILITY — A principal use offering individual or small-group instruction, orientation or training in various topics for personal development, such as performing arts, martial arts, crafts, or computer usage.

JUNKYARD — Land occupied by an activity principally characterized by the collection, dismantling and salvaging of waste material, inoperative equipment, machinery or motor vehicles, and may include the retail sale and/or wholesale distribution of salvaged material. (See "dump.")

KENNEL — (See "animals" and animal-related definitions.) A land use or structure used for the commercial harboring or care of domestic animals, such as dogs, cats, and similar domestic pets.

LANDSCAPE BUFFER — See "perimeter landscape strip."

LAND USE — A type of term used in this code as a group label for terms that describe and define human activities (land uses) that may occur on the land.

LIBRARY — A public or private institution maintaining a selection of books, records and similar media for use by the general public or membership, and may include meeting or lecture rooms, but shall exclude businesses which rent books, records, videotapes, videodiscs, athletic equipment or similar objects for compensation or profit.

LOT — An area of land defined by property lines shown on a deed, survey or official tax map, and is considered as a unit, occupied or capable of being occupied by one principal building and accessory buildings or uses, or when permitted in this code

by multiple buildings or uses united by a common use or interest; and including such open spaces as are required by this code, and having frontage on a public or private right-of-way or an officially approved right-of-way.

LOT AREA — The total square footage within the property line of a lot, including easements and excluding land within dedicated streets or highway boundaries

LOT, CORNER — See "corner lot."

LOT, FLAG — See "flag lot."

LOT, ORIENTATION — The orientation of a lot shall be determined as follows: The front property line of a lot shall be same as the street right-of-way line, regardless of length and intended orientation of any existing or proposed buildings, and the side and rear lines shall be determined relative to that front line. For corner, reverse-frontage and flag lots, see applicable definitions. For all other irregularly shaped lots, the Planning Board shall determine the lot orientation.

LOT, REVERSE-FRONTAGE — A non-corner lot that has two opposite lot lines contiguous with a street right-of-way line, one line representing the front and the other representing the rear of the lot. Unless specified during a subdivision approval process, the front lot line shall be determined by Planning Board and shall be based upon the following guidelines: the predominant orientation of nearby lots, the character of the abutting rights-of-way, and the existing or intended land use.

LOT, SHORELINE — See "shoreline lot."

LOT, THREE-SIDED — A lot with only three property lines forming its boundaries. For purposes of enforcement, it shall have no rear yard, two side yards and a front yard extending the entire width of the lot. The front yard shall conform to the requirements of the applicable zone district and shall have two side yards with a minimum depth of 10 feet each, regardless of the zone district requirements.

LOT WIDTH — The distance between the side property lines measured along the front building line as determined by the applicable front yard setback requirement as defined in this code.

LOT WIDTH, SHORELINE — See "shoreline lot width."

MAJOR STREET — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

MANUFACTURED HOME — A transportable dwelling unit suitable for one family, year-round occupancy and containing the same conveniences as immobile housing with respect to water supply, light, heat, power and waste disposal. A manufactured home is a portable unit designed and built to be towed on its own chassis comprised of a frame and wheels and designed for occupancy without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. A unit may also be two or more separately moveable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing (double-wide). Though manufactured units retain mobility, they are designed to be used as long-term residential units and exclude travel trailers, motorized homes, pickup coaches, camping trailers, and all forms of recreational vehicles.

MANUFACTURING — Land and/or a building occupied to process or transform raw or previously processed materials into finished products or parts and the storage and distribution of those materials to other manufacturers and/or wholesale or retail businesses. Examples include furniture manufacturers, metal processing, chemical processing, or assembly plants. This use shall exclude bulk storage and distribution of petroleum, natural gas or potentially hazardous chemicals.

MARGINAL ACCESS — Access from roads parallel to and adjacent to arterials that abut properties and provide

protection from through traffic. Marginal access roads and streets will be construed as local access or secondary collectors dependent on area served and traffic anticipated from particular developments.

MARINA, INDIVIDUAL — The accessory use of land adjacent to a water body for an individual private dock or boathouse facility incidental to a principal residential use.

MARINA, PRIVATE — The use of land, structures and adjacent water bodies for the storage and docking of one or more boats at docks or boathouse facilities. It shall exclude public or club use and shall contain no facilities for fuel, repair, sales, food or similar commercial operations.

MARINA, PUBLIC — The use of land, structures and adjacent water bodies for the storage, docking, and/or servicing of boats for compensation or as a nonprofit operation. It may include other business activities, such as retail fuel sales and administrative operations, restaurants and similar services.

MASTER OR COMPREHENSIVE PLAN — A comprehensive plan prepared by the Planning Board pursuant to § 272-a of the Town Law, which indicates the general locations recommended for various functional classes of public works, places and structures and the general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MEDICAL OFFICE — An office where patients are treated or attended to by medical practitioners that include but are not limited to physicians, dentists, physical or occupational therapists, laboratory tests, diagnostic (X-ray, MRI, etc.) testing. This definition excludes clinics and hospitals.

MICROWAVE — A method of providing telecommunications bandwidth by means of a series of antennas, transmitters and reflectors on towers.

MINI-WAREHOUSE — See "public self-storage facility."

MINOR STREET — A street intended to serve primarily as an access to abutting properties.

MOBILE HOME — See "manufactured home."

MOBILE HOME COURT — Land designed and planned in accordance with this code for occupancy by one or more manufactured home units.

MODULAR STRUCTURE — Any structure or building designed only for permanent placement. It may be assembled completely or partially into major building components off-site; and transported to a different site for permanent placement on a foundation. A major building component shall include but not be limited to such elements as rooms and be an assembled unit of walls, floor and ceiling. Off-site preassembly of elements such as stairs or steps, roof rafters or floor joists commonly used in the conventional construction of a building shall not be considered major building components. For purposes of these zoning regulations, a modular structure is the same as any conventionally built structure and shall comply with all applicable use and dimensional controls.

MOTOR VEHICLE — A vehicle as defined in § 125 of the Vehicle and Traffic Law of New York State.

MOTOR VEHICLE SALES, SERVICE, RENTAL — Land and structures commercially used for the servicing and repair (including auto body/collision repair), sales, or rental of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats.

MOTOR VEHICLE SERVICE STATION — Any area of land, including structures and buildings thereon, which is used for the supply of gasoline, oil, or other fuel for the propulsion of motor vehicles that may or may not include facilities for polishing, washing or otherwise cleaning such vehicles. Any convenience store with five or more stations for fueling vehicles at a single point in time shall be called a motor vehicle service station and the retail store will be considered an ancillary use.

MOTOR VEHICLE STORAGE — A facility occupying land, structures and/or buildings for the temporary controlled storage of operable motor vehicles. The addition or removal of any vehicle shall be subject to the control of the facility management. The use may contain space for offices and vehicles directly related to the operation. Examples include impound yards, towing services, vehicle holding yards or similar facilities storing vehicles for legal or financial reasons. This use excludes routine public parking, public garages, the storage of disabled or junk motor vehicles and/or motor vehicle sales, service, rental (as defined).

MULTI-MODAL — A realistic means for expanding travel, mobility, and accessibility opportunities within the Town by supporting and promoting alternative modes of transportation. This includes a fuller understanding of the relationship that land use policy, growth planning, and design standards play in furthering the ultimate success of alternative transportation modes such as walking and bicycling.

NATURAL PRODUCTION USES — Includes organic farming, naturally occurring biological processes, or near-organic methods of producing agricultural products without utilizing synthetic pesticides, herbicides, agri-chemicals, hormones, or other non-natural means (example: organic farming).

NIGHTCLUB/DANCE HALL — An establishment typically open to the public that predominantly includes areas for customer dancing or similar activity from live performance or recorded musical entertainment; it may include incidental food services and eating areas. (See also "land use," "restaurant," and "indoor recreation-participant.")

NONCONFORMING STRUCTURE — A building, existing at the time of the enactment of the zoning law or amendment thereto, that does not conform to the regulations, except the use regulations of the district in which it is situated.

NONCONFORMING USE — A use of land or building existing at the time of an enactment of the zoning law or amendment

thereto that does not conform to the regulations as to the use of the district in which it is situated.

NURSERY, COMMERCIAL — Land and/or building improved and occupied for the commercial raising, storage or retail sale of household or ornamental plants, and may include the incidental sale of garden supplies.

NURSERY SCHOOL — See "day-care center."

NURSING HOME/ASSISTED-LIVING FACILITY — An establishment where elderly, sick, invalid, infirm or convalescent persons are housed or lodged, furnished with meals and long-term nursing care and rehabilitation for hire.

O AND M or O & M — Operation and maintenance of municipal facilities and systems.

OFFICE — A building or a portion of a building exclusively occupied to perform services as a principal, accessory or incidental use of an administrative, professional or clerical nature and includes activities such as insurance, real estate, financial, legal, design, engineering, and management. It shall exclude a medical office, separately defined in this code.
[Amended 3-17-2008 by L.L. No. 1-2008]

OFFICE BUILDING — A principal structure primarily designed and/or occupied by one or more offices. (See "office" definition.)

OFFICIAL MAP — The map established by the Town Board pursuant to § 270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed.

OUTDOOR RECREATION - PARTICIPANT — A principal use of land or structures for individual or small-group sporting events or recreational activities, such as swimming pools, tennis courts, golf courses and exercise tracks, archery, pistol or rifle ranges. Such facilities are designed for the direct use and participation of most of the attendees and may include minimal spectator facilities. This land use may include incidental facilities for serving food and beverages.

OUTDOOR RECREATION - SPECTATOR — A principal use of land and facilities for individual or team sporting events or recreational activities, such as outdoor soccer, football or baseball fields or basketball courts. Such facilities provide substantial spectator seating and observation areas and may include space for direct participation of some of the attendees. This land use may include incidental facilities serving food and beverages.

OUTDOOR RETAIL SALES, DISPLAY AND SERVICE — (See also "retail use.") The use of an area of land outside of a building for the sale, display, servicing or storage of products, equipment, supplies, or merchandise related to a retail use. Such areas may be incidental to a principal retail use occupying a building or may be the primary sales area and include by illustration the sale of lumber, building or garden supplies, but specifically excludes vehicle sales, service or repair, junkyards, waste or scrap products or farm products.

OUTDOOR WOOD-FIRED BOILER (OWB) — Wood-fired water heaters that are located outdoors or are separated from the space being heated. The fires in the large fire boxes heat water that is circulated into the home through underground pipes. The energy may be used to heat houses, shops, domestic hot water, greenhouses, swimming pools, and spas. Indoor installed boilers are a variation of an OWB. They are in the same legal category as OWBs, and subject to the same regulations.

OVERLAY; OVERLAY ZONE — A zoning overlay builds on the underlying zoning, by establishing additional or stricter standards and criteria; the standards of the overlay zone apply in addition to those of the underlying zoning district. Overlay zoning can be an effective tool for communities to use in protecting specific resources from development pressures.

PARCEL — An area of land to be subdivided or consolidated. (See also "lot.")

PARKING SPACE — An area for the temporary parking of a motor vehicle consisting of at least 180 square feet with a minimum width of nine feet.

PARKLANDS — See "park/playground (public or private)."

PARK/PLAYGROUND — Public or private land reserved and minimally improved for recreational, educational or scenic purposes available to the general public or to a limited membership and may include facilities such as ball fields, tennis and basketball courts, playground equipment, storage and service buildings and picnic shelters, but excludes outdoor recreational (participant or spectator) uses as defined in this code.

PERIMETER LANDSCAPE STRIP — The land adjacent to front, side and rear lot lines, included within the same space for required setbacks but solely designed and used for buffering and transition between lots. Irrespective of allowable structures or uses within such required setbacks, the perimeter strip shall not be used for parking. Driveways and walks are permitted to transverse a perimeter strip to allow for necessary vehicle and pedestrian movements. It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification.

PERSONAL SERVICE USE — A commercial activity where the customer is typically present and is the direct object of the services received and characterized by the direct on-premises sale of services to the ultimate customer and includes uses commonly referred to as "barbershops," "beauty salons," "dry cleaners," "self-service laundries" and similar activities. (See also "retail use.")

PLANNED DEVELOPMENT DISTRICT (PDD) — Districts that are predominantly retail commercial in nature but may include some residential land uses, and are intended to provide for developments that incorporate complementary uses and innovative design features that promote aesthetic quality and superior functionality of higher-density development.

PLANNED DEVELOPMENT ENTERTAINMENT AND TOURISM DISTRICT (PDET) — A development in which the principal activities include indoor and outdoor recreation and entertainment that relate to tourism activities or events. This district designation is intended to regulate activities such as recreational parks, sports complexes, entertainment uses and supporting facilities, including horse racing, concerts, fairs, and motor sports, including automobile, motorcycle and snowmobile activities. [Amended 12-6-2010 by L.L. No. 2-2010]

PLANNED UNIT DISTRICT DEVELOPMENT (PUD) — Developments that are predominantly residential and have creative site design and a mix of uses by incorporating flexibility into special ordinances that are exclusive to the PUD, especially with regard to use, setbacks and minimum lot sizes. PUDs may include provisions to encourage clustering of buildings, designation of common open space, and incorporation of a variety of building types and land uses.

PLANNING BOARD or BOARD — The Planning Board of the Town of Vernon.

PRELIMINARY PLAT — A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, as specified in § 139-75 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PRIVATE CLUB — A facility under the direct supervision and control of a charitable, religious, fraternal, social service, public or similar community organization, including not-for-profit corporations, providing, and generally limited to, club membership, a place of congregation or meeting for purposes of education, training, counseling, active or passive recreation or similar pursuits, including social facilities. This land use may include incidental facilities for serving food and beverages. This term shall not include schools or retail business activities.

PROPERTY LINE — The legal boundary surrounding any area of land that is properly recorded on a deed, survey or tax map with the Town and/or County Clerk. For purposes of this code, any street, highway, or railroad ROW line shall also be considered a property line. Power and utility transmission ROW lines shall not be property lines unless explicitly noted in appropriate legal documents.

PUBLIC SELF-STORAGE FACILITY — A land use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include mini-warehouses, public storage, or self-storage facilities; the use excludes temporary or portable units, such as tractor-trailers or storage trailers (with or without wheels).

REAR YARD — See "yard, rear" (applicable to other derivations, e.g., "rear yard depth").

RECREATION AREA — See "park/playground (public or private)" or "outdoor recreation - participant."

RECYCLING BULK PROCESS FACILITY — A principal land use engaged in the commercial bulk collection of recyclable materials from off-site or unrelated sources, and may include the associated storage, processing, distribution and/or resale of these materials. Materials collected may include appliances, motor vehicles, construction waste, by-products of manufacturing processes, organic materials and materials received from recycling collection sites (see separate definition). Recyclable materials exclude any material considered under the Town Code to be garbage.

RECYCLING COLLECTION SITE — A principal, secondary or accessory land use engaged in the collection of recyclable materials directly from consumers and includes the temporary storage for transfer to a recycling bulk processor or an approved waste disposal site. For purposes of enforcement, these sites, when permanently established, shall be considered retail uses. Such uses may include collection bins or equipment for bottles and cans, batteries (excluding motor vehicle batteries), paper

PLANNED DEVELOPMENT ENTERTAINMENT AND TOURISM DISTRICT (PDET) — A development in which the principal activities include indoor and outdoor recreation and entertainment that relate to tourism activities or events. This district designation is intended to regulate activities such as recreational parks, sports complexes, entertainment uses and supporting facilities, including horse racing, concerts, fairs, and motor sports, including automobile, motorcycle and snowmobile activities. **[Amended 12-6-2010 by L.L. No. 1-2011]**

PLANNED UNIT DISTRICT DEVELOPMENT (PUD) — Developments that are predominantly residential and have creative site design and a mix of uses by incorporating flexibility into special ordinances that are exclusive to the PUD, especially with regard to use, setbacks and minimum lot sizes. PUDs may include provisions to encourage clustering of buildings, designation of common open space, and incorporation of a variety of building types and land uses.

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PRIVATE CLUB — A facility under the direct supervision and control of a charitable, religious, fraternal, social service, public or similar community organization, including not-for-profit corporations, providing, and generally limited to, club membership, a place of congregation or meeting for purposes of education, training, counseling, active or passive recreation or similar pursuits, including social facilities. This land use may include incidental facilities for serving food and beverages. This term shall not include schools or retail business activities.

PRIVATE WIND ENERGY CONVERSION SYSTEM — A device for transforming wind into electrical, thermal, or mechanical energy solely for use on the lot where the device is located. Such use is a special permit use in all districts and requires no variance but does require compliance with the criteria set forth in Article XXVIII, Wind Power Uses.
[Added 8-10-2009 by L.L. No. 1-2009]

PROPERTY LINE — The legal boundary surrounding any area of land that is properly recorded on a deed, survey or tax map with the Town and/or County Clerk. For purposes of this code, any street, highway, or railroad ROW line shall also be considered a property line. Power and utility transmission ROW lines shall not be property lines unless explicitly noted in appropriate legal documents.

PUBLIC SELF-STORAGE FACILITY — A land use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include mini-warehouses, public storage, or self-storage facilities; the use excludes temporary or portable units, such as tractor-trailers or storage trailers (with or without wheels).

REAR YARD — See "yard, rear" (applicable to other derivations, e.g., "rear yard depth").

RECREATION AREA — See "park/playground (public or private)" or "outdoor recreation - participant."

RECYCLING BULK PROCESS FACILITY — A principal land use engaged in the commercial bulk collection of recyclable materials from off-site or unrelated sources, and may include the associated storage, processing, distribution and/or resale of these materials. Materials collected may include appliances, motor vehicles, construction waste, by-products of manufacturing processes, organic materials and materials received from recycling collection sites (see separate definition). Recyclable materials exclude any material considered under the Town Code to be garbage.

RECYCLING COLLECTION SITE — A principal, secondary or accessory land use engaged in the collection of recyclable materials directly from consumers and includes the temporary storage for transfer to a recycling bulk processor or an approved waste disposal site. For purposes of enforcement, these sites, when permanently established, shall be considered retail uses. Such uses may include collection bins or equipment for bottles and cans, batteries (excluding motor vehicle batteries), paper products, plastics, packaging or similar types of items commonly used in households or offices. These uses specifically exclude the collection of any organic by-products or waste,

typical household or office trash, medical waste, furniture, appliances or any motor vehicles. Examples include redemption centers, bottle and can collection areas or equipment at retail stores, temporary (nonprofit fund-raising) collection sites, or retail stores accepting trade-in products, such as computers or similar electronic equipment.

RECYCLING PROCESS — An activity that collects, transforms, compacts, breaks down or otherwise converts waste, by-products of manufacturing processes, or finished products into smaller or component parts. These parts may then be disposed of in an approved waste disposal site or made available for reuse in any other process, such as manufacturing, construction, or agriculture. Examples include glass crushing, reprocessing of road asphalt, composting, paper reprocessing, metal separation, organic-waste treatments, separation or refinement of chemicals or paints, motor vehicle oil (used) retreatment.

RECYCLING PROCESS FACILITY — Equipment, structure or area of land used as a secondary or accessory land use in a recycling process. This facility shall be integral or directly related to the production process of any principal agricultural, commercial or industrial land use. Examples include organic composting bins or areas, animal waste (manure) holding areas and spreading equipment, or treatment plants for manufacturing by-products or waste. A recycling facility for typical household residential uses (e.g., garden composting bins) is excluded from this definition.

REGULATION GOLF COURSE — A public or private golf course consisting of nine or more holes with grass tees, fairways and greens.

RELIGIOUS INSTITUTION — A building used by people to regularly gather, attend and/or participate in religious services, ceremonies, instruction, meetings or similar activities and includes buildings commonly referred to as "churches," "synagogues," "meeting houses" or "temples"; the use may also include attached or detached dwelling units for a caretaker and/or primary religious official and his/her family.

RENDERING PLANT — A facility to process and convert raw animal products, by-products or general food waste into nonfood products that may be commercially usable for agricultural, industrial or consumer purposes, such as oil, soap, or fertilizer.

RESIDENTIAL LOT and RESIDENTIAL BUILDING PLOT — Any parcel of land of whatever size, any point on the boundary line of which is less than one-half mile from a point on the boundary line of another lot in the same tract, unless any lot may not legally be used for residential purposes.

RESTAURANT — A building or portion of a building occupied for the retail sale of food and/or beverages that are prepared and served in a ready-to-consume state for either on- or off-premises consumption. This definition includes uses commonly referred to as "luncheonettes," "snack bars," "family restaurants," "ice cream or pizza parlors," "take-out restaurants," "taverns," "inns" and "cafes." Excluded are nightclubs/dance halls, temporary facilities associated with carnivals, field days, charitable fund-raising or similar events and the incidental retail sale of prepared food accessory to another principal use, such as a gasoline service station or employee cafeterias and snack areas.

RESUBDIVISION — See "subdivision."

RETAIL USE — An activity primarily characterized by the on-premises sale and display of goods and services to the consumer; the use may contain areas for related accessory uses. Examples include uses commonly referred to as "department stores," "hardware stores," "grocery stores," "boutiques," "craft shops," "appliance repair shops," "video rental stores" and "personal service uses" (defined separately in this code). Excluded are the following principal uses: restaurants; gasoline service stations; motor vehicle sales, service or rental; and outdoor retail sales, display or service.

REVERSE FRONTAGE — Frontage on an access road constructed at the rear of lots fronting on a major roadway.

RIGHT-OF-WAY (ROW) — The legal boundary of the edges of a public or private road, street, highway, railroad, waterway or similar transportation corridor. Such boundaries are typically controlled and set by government agencies and/or state law. Current ROW lines may supersede an older property survey or deed description. The ROW line is the same as the street line forming the front or side property line of abutting lots.

SCHOOL — A public or private institution providing a curriculum of elementary and secondary academic instruction and includes a kindergarten, elementary, middle and high school. It excludes vocational, trade, or boarding schools, colleges or the offering of group instruction within a residence.

SECONDARY USE — See "use, secondary."

SELF-STORAGE FACILITY — See "public self-storage facility."

SERVICE STATION — A small, traditional station capable of servicing fewer than five vehicles simultaneously or fueling no more than four vehicles at any one point in time, including ancillary sales of retail goods occupying no more than 200 square feet of floor area.

SETBACK — The minimum or maximum (as set forth in each zone district) distance formed by a line connecting two points measured towards the interior of a lot from the front, side and rear property lines forming the boundaries of the lot's buildable area and required yard areas. For irregular or curved property lines, the distance shall be a line parallel to the property line. (See also "yard, required.")

SHOPPING CENTER — Land planned, improved and managed to accommodate a grouping of two or more commercial uses in one or more buildings designed to share parking, access, signage and other site services; uses commonly included within a shopping center are retail stores, restaurants, drive-in services, gasoline service stations, indoor recreation and offices. Two or more separately owned commercial units shall not be deemed a shopping center solely by virtue of the

fact that they share a common access to adjoining highways and/or parking facilities.

SHORELINE — The physical boundary of a water body and may fluctuate with natural changes in water elevation. Unless established by a federal or state agency, the shoreline shall be the annual mean high-water mark, as determined by a professional civil engineer or a licensed surveyor. (See also "shoreline lot"; "lot width"; "shoreline"; and "shoreline structure.")

SHORELINE IMPROVEMENTS — Installation of any man-made materials or modifications to existing natural conditions to facilitate access, swimming, boating, or fishing to an adjacent body of water. It includes but is not limited to such activities as excavation of boat slips or launches; installation of piers, docks, decks, or walls.

SHORELINE LOT — Any property that has at least one property line or portion of a property line within or adjacent to a water body. For enforcement purposes, the front of a lot shall be along a property line adjacent to an existing or proposed public or private right-of-way. The portion of a lot adjacent to a water body shall be subject to the width, setback or other provisions of the Riverfront Overlay Zone.

SHORELINE LOT WIDTH — The width of property adjacent to a water body shall be measured as the most direct straight or curved line parallel to the approximate center line of the adjacent water body, as determined by the Commissioner. The natural variations of a shoreline shall not be used to determine the shoreline width of a property.

SHORELINE STRUCTURE — A type of accessory structure, as defined in this code, specifically designed or modified to facilitate direct access to an adjacent water body, such as a storage building or boathouse that affords protection and/or storage to boating craft while remaining in the water.

SIGN — Any structure, natural object or part thereof, device, or inscription, which is represented on any land or the outside

of any building used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banners, flags, pennants, insignia, trademarks, devices or representations used as, or which is in the nature of, an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry or public performance.

SIGN, ADVERTISING — A sign, including those which are composed of light rays only, calculated to attract public attention to a product, service or undertaking encompassing activities off the property where such signs are situated, including what are commonly termed "billboards," "posters," "symbols," and similar devices of whatever composition, size, location or color.

SIGN, ANIMATED — A sign or any portion thereof having movement by mechanical or natural means, including, by way of illustration and not limitation, rotating signs, wind signs and signs where movement is simulated by illumination devices. This term shall include the use of blinding, flashing and general intermittent light, as opposed to light of a constant intensity. All time and/or temperature devices as defined herein shall not be considered animated, whether or not they contain or are incorporated into a sign.

SIGN AREA — The entire area within a single continuous perimeter enclosing the extreme limits or writing, representation, emblem, or any figure of similar character, as included within the definition of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is situated.

SIGN, BUSINESS — A sign identifying and directing attention to a business offering a commodity, service, industry or other activity which is sold, offered or conducted. Such sign is to be

located, pursuant to this code, directly on or at the business location, within the property boundaries or within the leased area for multiple occupants. Examples include freestanding, marquee, projecting, roof and wall signs, as defined by this code.

SIGN, CONSTRUCTION — A sign located in commercial and industrial zones; means a sign containing only the identification of persons or firms directly associated with the development or improvement of real property, such as architects, engineers, developers, construction companies, suppliers and sponsors, but expressly excluding products, services and other forms of advertising.

SIGN COPY CHANGES — Change of copy on a sign, the customary use of which involves frequent and periodic changes of copy such as those customarily associated with theater marquees and bulletin boards.

SIGN DISPLAY SURFACE — The surface made available by the structure, either for the direct mounting of letters and decoration or for the mounting of facing material intended to carry the entire advertising message.

SIGN FACING — The surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN, FREESTANDING — A sign which is supported by one or more uprights or braces in or upon the ground.

SIGN HEIGHT — The vertical distance from the uppermost point of a sign (measured from a ten-foot radius of the sign structure or structural trim) to the average ground height beneath the sign and within the structure thereof.

SIGN, INFORMATION — A sign which contains information intended exclusively as a public service and of a noncommercial nature indicating such facilities as rest rooms, public telephones, bus stops and rest areas. In addition, this category shall include garage sale signs and home occupation signs.

SIGN LETTERS AND DECORATIONS — The letters, illustrations, symbols, figures, insignia, and other devices employed to express and illustrate the message of the sign.

SIGN MAINTENANCE — Routine maintenance, including minor repairs, such as repainting, bulb replacement and repair of electrical or mechanical parts.

SIGN, MARQUEE — A sign attached to or hung from a marquee. "Marquee" means a canopy or similar structure projecting from a building.

SIGN, OFFICIAL — A sign established pursuant to governmental authority or used for the identification of public buildings, facilities and activities, and shall include traffic regulation devices authorized by the Vehicle and Traffic Law of the State of New York and any other sign authorized and required under local, state or federal law.

SIGN, OPEN HOUSE/RESIDENTIAL REAL ESTATE SIGN — A sign promoting an open house.

SIGN, POLITICAL SUBDIVISION AND CIVIC — A sign in the nature of a flag or pennant containing the insignia or emblem of a political subdivision, nonprofit civic-oriented organization or fraternal order, and displayed on special occasions as an incident to the activities of such organizations, and shall expressly exclude private identification signs.

SIGN, PRIVATE TRAFFIC — A sign situated within private property providing information for traffic movement and storage, such as directional signs, parking areas, freight and loading areas, prohibited parking areas, points of ingress and egress, speed limits and related items, but expressly excluding off-street parking lot or garage identification signs.

SIGN, PROJECTING — A sign which is affixed to any building wall or structure and extends beyond the building wall or parts thereof more than 15 inches horizontally, and no portion of which projects above the roofline or parapet of a building.

SIGN, PUBLIC SAFETY — A sign containing information designed for the protection and safety of the general public, such as warnings of danger areas, trespassing notices, work areas, utility warnings, street elevators, sentry dogs, security systems, safety warning devices and similar notices.

SIGN, ROOF — A sign, any portion of which is either situated above the upper edge of any building wall or parapet (except as otherwise provided in the definition of "wall sign" below) or erected or painted on or above the roof covering any portion of a building, including signs supported on the roof or on an independent structural frame located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure.

SIGN, SITE DEVELOPMENT — A sign containing the identification and nature of the development or improvement of residential real property along with the listing of architects, developers and sales organizations.

SIGN, STATUARY — An inscription commemorating an event of unique historical, social, cultural or geographical significance.

SIGN STRUCTURAL TRIM — The molding, battens, cappings, nailing strips, latticing, and platforms which are attached to the sign structure.

SIGN STRUCTURE — The supports, uprights, bracing and framework of the sign

SIGN, TEMPORARY PROMOTIONAL OR ANNOUNCEMENT — A sign installed and maintained pursuant to this code that is designed to inform the general public of an event, festivity or related enterprise of an exclusively temporary nature, sponsored by a nonprofit organization or governmental unit.

SIGN, TIME AND/OR TEMPERATURE DEVICE — Any instrumentality visible to the general public which provides information as to time and/or meteorological conditions.

SIGN, WALL — A sign which is affixed and parallel to an exterior wall of a building, projecting not more than 15 inches therefrom, and extending not more than three feet above the roofline or parapet of the building; where a sign extends above three feet, it shall be considered a roof sign.

SIGN, WINDOW — A sign situated on the interior of a window, not forming an integral part of a window display.

SIGN, WINDOW DISPLAY — A sign situated on the interior of a window and forming an integral part of a window display.

SITE PLAN — See "graphic plan"; see also "site plan review."

SITE PLAN REVIEW — An examination of a proposed land development by the Town Planning Board pursuant to the guidelines and standards of this code.

SKETCH PLAN — A sketch of a proposed subdivision showing the information specified in § 139-74 of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

SLAUGHTERHOUSE — A facility where animals are temporarily held, butchered and prepared for either retail or wholesale market consumption.

SMALL BUSINESS — A small commercial enterprise that employs no more than five individuals, requires no more than 10 parking spaces or generates no more than an average of 30 vehicle trips per day.

SMART GROWTH — The use of Town comprehensive planning to guide, design, develop, revitalize and build communities for all that have a unique sense of community and place; preserve and enhance valuable natural and cultural resources; equitably distribute the costs and benefits of development; expand the range of transportation, employment and housing choices in a fiscally responsible manner; and value long-range, regional considerations of sustainability.

STORAGE — See "public self-storage facility."

STORAGE UNIT, PORTABLE — An incidental and temporary structure to hold or shelter materials; examples include storage trailers, box trailers, inflatable units, tents.

STREET — A public or private right-of-way affording the public vehicular and/or pedestrian access to abutting property. (See "right-of-way.") Includes streets, roads, avenues, lanes or other trafficways between right-of-way lines.

STREET LINE — A single line formed by the intersection or overlap of the street or road right-of-way boundary and the abutting property line.

STREET PAVEMENT — The wearing of exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The width of the right-of-way, measured at right angles to the center line of the street.

STRUCTURE — Anything constructed, erected or otherwise situated on the land, whether of a permanent or temporary nature.

STRUCTURE, ACCESSORY — A building, structure or mechanical equipment or decorative device attached to or detached from a principal structure, located on the same lot or property and is subordinate and incidental to the use of the principal structure. The term includes improvements such as mailboxes, garages, storage sheds, waste disposal equipment, antennas, swimming pools, parking/loading areas and signs.

STRUCTURE, PRINCIPAL — A building, structure or mechanical equipment designed, built, occupied, or used by the principal land use activity allowed on the lot.

STRUCTURE, SHORELINE — See "shoreline structure."

SUBDIVIDER — Any person, firm, corporation, partnership or association who or which shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION — The division of a single parcel of land into five or more blocks, lots, or plots, with or without streets or highways, for sale, lease, any similar conveyance or future development; any tract of land which is divided into five or more parcels along an existing or proposed street, highway, easement or right-of-way for sale or rent as residential lots or residential building plots or as business, commercial or industrial lots or building plots, regardless of whether the lots or plots to be sold or offered for sale, or leased for any period of time, are described by metes and bounds or by reference to a map or survey of the property, or by any other method of description, and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth residential lot or residential building plot or of a business, commercial or industrial lot or building plot within any consecutive five-year period and upon such sale, rental or offer for sale or lease. The provisions of §1116 of the Public Health Law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for lease or sale singly or collectively. The intent of this definition of "subdivision" is to exclude from Planning Board review simple subdivisions of vacant land into four or fewer lots within any five-year period so long as the four or fewer lots are situated on a public roadway and accordingly do not require the construction of any roadway to give access to the subdivided roads or the construction of water, sewer or drainage facilities.

[Amended 10-12-2009 by L.L. No. 2-2009]

SUBDIVISION ADJUSTMENT — The relocation of an existing lot line(s) between two or more legally existing lots without creating new streets, curb cuts, infrastructure needs or lots; or the elimination of a lot line consolidating two existing legal or legal nonconforming lots without creating new streets, curb cuts, or infrastructure needs (see to "subdivision, major" and "subdivision, minor").²

2. **Editor's Note:** The definitions of "subdivision, major" and "subdivision, minor," which immediately followed this definition, were repealed 10-12-2009 by L.L. No. 2-2009.

SUBDIVISION PLAT or FINAL PLAT — A drawing in final form showing a proposed subdivision, containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

SURVEYOR — A person licensed as a land surveyor by the State of New York.

SWIMMING POOL — An accessory structure that is a receptacle for water, having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or on the ground.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data and other information by wire, radio and other electronic or electromagnetic systems.

TELECOMMUNICATIONS FACILITY — Telecommunications towers and associated antennas and accessory structures.

TELECOMMUNICATIONS TOWER — A structure designed to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology. It is a structure intended for transmitting and/or receiving radio, television, telephone or microwave communications, but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.

THEATER, INDOOR — A form of indoor recreation-spectator use comprised of two main permanent building components: a display or performance space (stage, movie screen, podium, etc.) and customer sitting areas for viewing and listening to presentations/performances. It may include incidental areas for

the sale of prepared food and drinks (snack-beverage bar, vending machines), but not designated eating or dining areas.

TOWER — Any tower, pole, windmill or other structure, whether attached to a building, guyed or freestanding, designed to be used for and/or for the support of any device for the transmission and/or reception of radio frequency signals, including, but not limited to, broadcast, shortwave, citizen's band, FM or AM television, microwave and any wind-driven devices, whether used for energy production or not.

TOWN CENTER — A concept calling for a mix of retail businesses offering goods and services such as clothing, home decor, books, music, gourmet foods, art, dining, and entertainment for residents and visitors. Businesses would be located on ground floors with businesses or residential uses on the upper floors. No specific architectural style is required; however, a strong emphasis on high-quality building design and materials is encouraged.

TOWN ENGINEER — The duly designated Engineer of the Town.

TOWNHOUSE — A series of principal structures combined into a larger single building. Each building is a series of single-family dwelling units, having a common wall between each unit with each unit having separate utility services and being located on a separate filed lot.

TRACT — Any body of land, including contiguous parcels of land under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

TRASH TRANSFER STATION — See "recycling bulk process facility."

TRUCKING TERMINAL — Land and buildings used as a relay station for the transfer of cargo from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may

include pickup and drop-off areas, parking areas for trucks, and structures or areas for the servicing of trucks associated with the terminal.

USE, ACCESSORY — An activity located on the same lot or property which is incidental to a principal use that is subordinate and supportive in purpose to the principal use. Some examples include uses such as management offices for business, institutional or industrial establishments; incidental machine or equipment repair for retail businesses.

USE, PRINCIPAL — The major use or activity occurring on a lot and defining the overall purpose of the land and structures.

USE, SECONDARY — A minor land use within a larger principal land use or structure that does not directly relate or support the principal land use. Secondary uses are permitted when specified in a district, subject to the designated review.

UTILITY SUBSTATION — Land occupied by a building, structure or equipment used for private business or by a private or public utility service regulated by the NYS Public Service Commission or a federal agency in the transmission or collection of energy, water, or sanitary waste and may include communication towers, transmission poles and towers, cellular phone towers or antennas, pump stations, and equipment monitoring buildings. It excludes transmission facilities for public broadcasting use; offices for public benefit; vehicles, equipment and material storage; warehousing and similar functions.

VETERINARY CARE FACILITY — A business providing for the care, medical treatment and incidental boarding of dogs, cats, similar domestic animals, and/or farm animals.

WAREHOUSE — A building primarily designed or used for the storage of materials, such as consumer products, business or administrative records, industrial or agricultural supplies, tools or equipment, and/or personal items. This definition excludes public self-storage facilities, wholesale uses, and truck terminals, separately defined in this section.

WHOLESALE — A commercial activity characterized by the bulk storage, distribution and/or sale of merchandise to other retail, manufacturing, construction contracting, institutional or wholesale establishments. This use may include provision for related administrative offices, product showrooms, truck storage and parking areas. It excludes facilities for the storage and distribution of petroleum, natural gas or hazardous chemicals.

WILDLIFE MANAGEMENT AREAS (WMAs) — Lands under the control and management of the Department of Environmental Conservation's Division of Fish, Wildlife and Marine Resources. These lands are primarily intended for the preservation of wildlife habitat, the unrestrained propagation of wildlife, the enjoyment of wildlife, and the pursuit of traditional hunting and fishing within a natural and unrestrained environment.

WIND POWER GENERATING FACILITIES — Wind generating facilities that generate power on site to be transferred to a transmission system for distribution to customers other than the owner of the wind generating facility itself. This definition of "wind power generating facilities" shall not include individual wind power generating facilities erected and used primarily for private use. **[Added 8-10-2009 by L.L. No. 1-2009]**

YARD — The land area of a lot or property unoccupied by principal structures or principal land use activities. Yards are typically occupied, used or improved with landscaping, signs, parking, pavements and similar minor and incidental structures or activities. Yards or portions of yards may be both regulated and unregulated by this code according to the zone district and/or the supplemental regulations. (See also definitions for "yard, required" and each type of yard.)

YARD, FRONT — The required open space extending across the entire width of the lot between the front property line and the required front setback distance measured from the center line of the highway right-of-way. Permissible intrusions into the front yard may include steps and ramps that are minimally

necessary for access, and do not protrude above the finished grade within the highway ROW more than six inches in height with the exception of street elements necessary for safety, approved signs and landscaping.

YARD, REAR — An open, unoccupied space, except for walks, patios, paved areas, accessory structures and the parking of motor vehicles, on the same lot with the building between the rear building line and the rear lot line and extending the full width of the lot.

YARD, REQUIRED — The areas of land within a property and measured inwardly from the property lines specifically regulated by this code as to the type and nature of permitted structures, improvements or activities. The requirements may vary by zone districts, land use or other criteria. The required yards are for multiple purposes, such as perimeter landscape strips, vehicular separation, aesthetics, fire protection, snow storage and drainage. (See also definitions for "setback" and each type of yard.)

YARD, SIDE — An open, unoccupied space on the same lot with the building, situated between the side building line and side lot line, and extending between the required front yard and rear yard. It may be occupied by walks, patios, pavement, fencing and eaves, cornices, and similar portions of the principal structure.

ZONE DISTRICT — Legal areas established by this code to organize and regulate private land development activity within the Town. A zone district will typically encompass many properties that may be occupied or used by a variety of land uses. The land uses regulated by a district are based upon the specific text included in this code.

ZONING ENFORCEMENT OFFICER (ZEO or CEO) — The person or persons appointed by the Town of Vernon as the administrative official responsible for enforcing the Zoning Law as well as other state and local code requirements.

**Part 2
District Regulations**

**ARTICLE II
Zoning Districts**

§ 139-3. Enumeration of districts.

For the purpose of this chapter, the Town of Vernon is hereby divided into the following types of districts:

- A Agricultural Zoning District
- A-R Agricultural Residential Zoning District
- R-H Rural Hamlet Zoning District
- R-1 Residential Zoning District
- R-MHP Residential/Mobile Home Park Zoning District
- C-1 General Commercial Zoning District **[Amended
3-17-2008 by L.L. No. 1-2008]**
- C-M Commercial/Manufacturing Zoning District
- L-C Land Conservation Overlay District
- PUD Planned Unit Development
- PDD Planned Development District
- PDET Planned Development Entertainment and Tourism
 District

§ 139-4. District objectives.

The objectives of the districts are as follows:

- A. Agricultural District: to maintain active farming areas as the preferred land use while providing for limited low-density housing development primarily oriented to farm uses. All development should be planned to maintain as much as possible agricultural lands.
- B. A-R Agricultural Residential District: (reserved for future district).

- C. R-H Rural Hamlet District: to provide for a cluster of moderate-density neighborhood housing development and neighborhood services in traditional hamlet form while maintaining the generally rural character of the Town.
- D. R-1 Residential District: to provide for moderate- to high-density housing development in or adjacent to existing cities, villages and hamlets; also, to provide for small-scale commercial services necessary for residential area.
- E. R-MHP Residential/Mobile Home Park District: to provide areas for the development of mobile home parks where compatible with adjacent uses.
- F. C-1 General Commercial District: to provide for commercial development within the Town which is in close proximity to existing commercial centers and planned infrastructure development. **[Amended 3-17-2008 by L.L. No. 1-2008]**
- G. C-M Commercial/Manufacturing District: to provide for industrial development within the Town and to allow this to occur with compatible large-scale commercial operations.
- H. L-C Land Conservation Overlay District: to preserve and protect floodplains and wetlands within the Town to ensure against loss of life and property from flooding, to maintain areas as natural stormwater retention basins, to maintain and improve water quality and to maintain natural areas of wildlife and human aesthetic enjoyment.
- I. H-O Highway Overlay District: to preserve the hierarchy of the Town's highway system and to assure compatibility of land uses with the function of adjoining highways.
- J. PUD/PDD Planned Development District:
 - (1) PUD: to provide for unified development of generally large-scale, new and innovative projects where one or more types of uses that are compatible with

predominantly residential developments and rural character may be within a single project; or

- (2) PDD: to provide for unified development of generally large-scale, new and innovative projects with a mix of uses that are compatible with predominantly commercial and retail development that is compatible with rural character within a single or phased project.

K. PDET Planned Development Entertainment and Tourism District: to provide for unified development in which the principal activities include indoor and outdoor recreation and entertainment that relate to or support tourism activities or events. (This district designation is intended to regulate activities such as recreational parks, sports complexes, stadiums, entertainment uses and supporting facilities.)

§ 139-5. Zoning Map.

Said districts are shown, defined and bounded on the map accompanying this chapter entitled "Town of Vernon Zoning Map," dated January 2007, and signed by the Town Clerk. The Zoning Map and all explanatory material thereon is hereby made a part of this chapter.²

§ 139-6. Interpretation of boundaries.

The district boundary lines are generally intended to follow the center lines of streets, the center lines of railroad rights-of-way, existing lot lines or Town boundary lines, all as shown on the Zoning Map. For H-O Highway Overlay Districts, setbacks are measured from the center line of streets. For the L-C Land Conservation Overlay Districts, the areas included and boundaries shown are those areas and boundaries indicated by

2. Editor's Note: A copy of the Zoning Map is included at the end of this chapter.

the Federal Insurance Administration (FIA), flood hazard areas for floodplains, and by the New York State Department of Environmental Conservation (DEC) for wetlands. For those areas and boundaries not designated by the FIA as special flood hazard areas but shown on the Zoning Map as being in the L-C Land Conservation Overlay District, a two-hundred-foot corridor centered on that stream shall be defined as the boundary of the L-C Land Conservation Overlay District. Where a district boundary does not follow such lines as described above, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street center line or other boundary as indicated.

§ 139-7. Lots in more than one district.

Where a lot or combination of parcels for which a single development is proposed is located in more than one zoning district, the Zoning Officer shall request the Zoning Board of Appeals to render a determination with respect thereto. The Board shall consider the following factors in making such a determination:

- A. Is there an insignificant area in one district? If so, the standards and regulations for the district which comprises the majority of the lot in question should be applied.
- B. Is one of the districts the L-C Land Conservation Overlay District? If so, the impacts of the proposed use should be analyzed to ensure that no degradation of the resources of this district occurs.
- C. Is one of the districts in the H-O Highway Overlay District? If so, front yard setback and driveway spacing requirements should apply to ensure that highway functionality and highway safety are preserved.
- D. If the proposed plans submitted are not detailed enough to allow complete analysis of the impacts and implications for both zoning districts, the Board may wish to require that

the applicant submit detailed plans showing all proposed changes, methods of operation, etc.

ARTICLE III Use Regulations

§ 139-8. Permit required; applicability.

- A. In each of the districts, no parcel of land or building shall be used and no building shall be erected or altered except for one or more of the uses listed for that district and until application is made and approval is granted for a zoning permit. Any action which constitutes the initiation of a use, such as land clearing, grading or excavation, shall not be commenced unless and until a zoning permit is issued pursuant to this chapter and the State Uniform Fire Prevention and Building Code, as amended.
- B. Agricultural use of the land (nonstructural) shall be exempt from the provisions of this chapter; however, all structures are required to obtain a building permit. Building permits are valid for one year, after which they expire unless written application for renewal is made before the lapse of the year. Building permits may be renewed for a six-month period for one-half the cost of a new permit at the current rate. No more than two six-month extensions shall be permitted for a single project. Building permits shall be sun-setted (e.g., no longer valid) pending for more than 730 days (two years) without proof of extraordinary circumstances preventing construction.

§ 139-9. Permitted principal uses.

Uses shown in this category (permitted principal uses) are required to obtain a zoning permit. A zoning permit shall not be issued for more than one principal use on single lot.

§ 139-10. Site plan review uses.

- A. Uses shown in this category (site plan review uses) for each district are required first to comply with review by the Planning Board as set forth in Article XXI. All applications for such uses shall be referred by the Enforcement Officer to the Planning Board. After compliance with Planning Board review per Article XXII, the application shall be returned to the Enforcement Officer for action.
- B. If a use is shown in both the site plan review uses and the special permit uses categories, the Enforcement Officer shall refer such an application first to the Planning Board for its review and action. No final action shall be taken by the Planning Board in such a case until a referral had been made to the Zoning Board of Appeals and a determination has been rendered to the Planning Board prior to site plan approval.

§ 139-11. Special permit uses.

Uses shown in this category (special permit uses) for each district must be approved by the Zoning Board of Appeals as explained in § 139-96C. All applications for uses in this category shall be referred by the Enforcement Officer to the Zoning Board of Appeals. If a use is shown in both the special permit uses and site plan review uses categories, the Enforcement Officer shall refer such an application first to the Planning Board for its review and action. No action shall be taken by the Zoning Board of Appeals until a determination has been rendered by the Planning Board.

**ARTICLE IV
Agricultural Zoning District**

§ 139-12. Purpose; permitted uses; supplemental regulations.

- A. Purpose and intent. The Agricultural District is intended to conserve rural portions of the Town that are characterized by farms and agricultural operations, including residential development that is ancillary to farming and compatible with low-density residential development. The preferred land use in this district is agriculture and agricultural infrastructure. Properties within this district rely on individual on-site systems for the essential provision of water supply and septic disposal. Therefore, in order to ensure adequate separation of these essential systems to eliminate their potential for contamination and to prevent any undue burden upon the natural environment and landowners, the required minimum residential lot size is the largest within the Town and is "farm-based" in nature, meaning that the size of residential structures may require a larger lot size. The large lot is intended to promote separation of farms and unrelated residential uses to protect both activities from the potential adverse effects each has upon the other while, at the same time, allowing for affordable housing within portions of the district that are not necessarily viable for farming. The overall level of development within this district is encouraged to be maintained at a low intensity so that the cumulative effects of development are able to be absorbed within the existing unimproved environmental conditions of the area.
- B. Uses permitted by right with building permit as required shall be as follows:
- (1) Wildlife management areas.
 - (2) Agriculture, forestry or farm as defined in § 139-2, Definitions, of this chapter, with the following restrictions:

- (a) No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominantly produced by the farmer.
 - (b) The storage of manure shall not take place within 100 feet of the nearest lot line.
 - (c) No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest residential lot line than 100 feet. Manure, garbage, or refuse shall not be stored within 100 feet of a property line and must be a minimum of 100 feet from any approved potable water supply. No garbage, refuse, or practice not endorsed by Agriculture and Markets for feed shall be used for feed other than that which is actually produced on the farm property or properties.
 - (d) Farms are exempt from the requirements of obtaining zoning or site plan approvals in agricultural zoning districts.
- (3) Single-family dwelling on a permanent foundation and its accessory uses and structures.
- C. Uses permitted upon site plan review (See Article XXI) are as follows:
- (1) Two-family dwellings.
 - (2) Churches.
 - (3) Utility substations, telecommunications facilities, or wind generators.
 - (4) Public schools.
 - (5) Farm stands with greater than 3,000 square feet of retail floor area.

- (6) Natural production uses (see § 139-2, Definitions).
- (7) Home occupations.
- (8) Regulation golf courses.
- (9) Hospitals.
- (10) Gun clubs and private recreation facilities.
- (11) Home occupations.
- (12) Outdoor wood-fired boilers. [Note: Outdoor wood-fired boilers (OWBs) are only permitted in the Agricultural (A) Zoning District.]

D. Uses permitted upon issuance of special permit are as follows (See § 139-96C):

- (1) Child day-care facilities, excluding such facilities described in Social Services Law [See § 390, Subdivision 12(b), of the Social Services Law].
- (2) Private schools (nursery through college).
- (3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- (4) Regulation golf courses.
- (5) Country stores of 3,000 square feet or less.
- (6) Private recreational campsites.
- (7) Tourist homes or hostels.
- (8) Farm supply and/or equipment sales or service.
- (9) Veterinarians.
- (10) Kennels.
- (11) Small businesses.

- (12) Commercial excavation.
- (13) Landfills.
- (14) Temporary dwellings.
- (15) Outdoor wood-fired boilers.

E. Supplemental regulations shall apply as follows:

- (1) Height, yard and corner lot exceptions.
- (2) Compliance with Highway and Conservation Overlay Districts.
- (3) Off-street parking and loading.
- (4) Signs.
- (5) Screening and landscaping.
- (6) Accessory uses and structures.

§ 139-13. Dimensional requirements.

The following dimensional requirements apply:

A. Farm, forestry or wildlife management areas.

- (1) Area, minimum (square feet): five acres. (Note: A farm may be less than five acres if it is situated adjacent to an existing agricultural parcel or is deemed to be economically viable agriculture by the New York State Department of Agriculture and Markets.)

B. Residential structures and uses.

- (1) Lots shall meet the following form-based lot size requirements:

Regulation	One-Family	Two-Family
Area, minimum (square feet)	40,000	80,000
For structures up to 2,000 square feet	40,000 ¹	—
For structures between 2,000 square feet and 3,000 square feet	60,000 ¹	—
For structures 3,000 square feet or greater	80,000 ¹	—
Width, minimum (feet)	150	200
Lot coverage (maximum percentage)	25%	25%

Notes:

¹ All other regulations apply regardless of building size.

- (2) Principal structure and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family
Front yard setback (feet)	80	80
*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)		
Side yard setback		
One side (feet)	15	15
Total both sides (feet)	30	30
Rear yard setback		
Principal structure (feet)	35	35
Accessory structure (feet)	20	20

Regulation	One-Family	Two-Family
Maximum height (feet)	35	40

C. Nonresidential uses and structures.

- (1) Lots shall meet the following requirements:
 - (a) Area, minimum: 80,000 square feet.
 - (b) Width, minimum: 200 feet.
 - (c) Coverage, maximum: 25%.
- (2) Principal structures and accessory structures shall meet the following requirements:
 - (a) Front yard setback: 110 feet (measured from the center line of the street unless the highway overlay applies; see § 139-25).
 - (b) Side yard setback:
 - [1] One side: 15 feet.
 - [2] Total of both sides: 50 feet.
 - (c) Rear yard setback for principal structure: 35 feet.
 - (d) Rear yard setback for accessory structures: 15 feet.
 - (e) Maximum height: 50 feet.

ARTICLE V
Agricultural Residential Zoning District

§ 139-14. Purpose; permitted uses; supplemental regulations.

(Reserved for future water extensions.)

- A. Purpose and intent. The A-R District is intended for undeveloped portions of the Town in proximity to areas already developed for residential purposes and is likely to be developed for suburban-type development in proximity to existing services within villages or the city. The district is intended to accommodate the continued use of existing farms and to allow for some minimal residential development in appropriate locations (e.g., within proximity to existing or proposed water infrastructure but not within proximity to existing or proposed wastewater infrastructure extensions). Residential land use within this district will rely on individual on-site septic systems for wastewater disposal within the estimated planning horizon of 10 years. Therefore, residential lots in this district are larger than the R-1 District to ensure that wastewater effluent does not burden local groundwater supplies. A secondary rationale is to discourage the premature extension of public sewer infrastructure.
- B. Uses permitted by right with a building permit as required shall be as follows:
- (1) Single-family dwelling on a permanent foundation and its accessory uses and structures.
 - (2) Farm with the following restrictions:
 - (a) No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominantly produced by the local farmer.
 - (b) The storage of manure shall not take place within 50 feet of the nearest lot line.

(c) No farm stock, horses, or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest lot line than 100 feet. No garbage or refuse shall be used for feed, other than that which is actually produced on the farm property or properties.

(d) Farms are exempt from the requirements of Subsections C and D below (e.g., exempt from site plan or special permit requirements).

C. The following uses are permitted upon site plan review (see Article XXI):

- (1) Two-family dwellings.
- (2) Churches.
- (3) Utility substations, telecommunications facilities or wind generators.
- (4) Public schools.
- (5) Farm stands with less than 3,000 square feet of retail floor area.
- (6) Home occupations.
- (7) Regulation golf courses.
- (8) Hospitals
- (9) Home occupations.

D. Uses permitted upon issuance of special permit are as follows (See § 139-96C):

- (1) Child day-care facilities, excluding such facilities described in Social Services Law [See § 390, Subdivision 12(b), of the Social Services Law].
- (2) Private schools (nursery through college).

- (3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- (4) Regulation golf courses.
- (5) Country stores of 3,000 square feet or less.
- (6) Tourist homes or hostels.
- (7) Veterinarians.

E. Supplemental regulations shall apply as follows:

- (1) Height, yard and corner lot exceptions.
- (2) Compliance with Highway and Conservation Overlay Districts.
- (3) Off-street parking and loading.
- (4) Signs.
- (5) Screening and landscaping.
- (6) Accessory uses and structures.

§ 139-15. Dimensional requirements.

The following dimensional requirements apply:

A. Farm, forestry or wildlife management areas:

- (1) Area, minimum (square feet): five acres.

B. Residential structures and uses.

(1) Lots shall meet the following requirements:

Regulation	One-Family	Two-Family
Area, minimum (square feet)	40,000	40,000
Width, minimum (feet)	150	200
Lot coverage (maximum percentage)	25%	25%

(2) Principal structure and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family
Front yard setback (feet)	80	80
*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)		
Side yard setback		
One side (feet)	15	
Total both sides (feet)	30	30
Rear yard setback		
Principal structure (feet)	35	35
Accessory structure (feet)	15	15
Maximum height (feet)	30	35

C. Nonresidential uses and structures.

- (1) Lots shall meet the following requirements:
 - (a) Area, minimum: 80,000 square feet.
 - (b) Width, minimum: 300 feet.
 - (c) Coverage (maximum percentage): 25%.
- (2) Principal structure and accessory structures shall meet the following requirements:
 - (a) Front yard setback: 110 feet (measured from the center line of the street unless the highway overlay applies; see § 139-25).
 - (b) Side yard setback:
 - [1] One side: 30 feet.
 - [2] Total of both sides: 50 feet.
 - (c) Rear yard setback for principal structure: 50 feet.
 - (d) Rear yard setback for accessory structures: 15 feet.
 - (e) Maximum height: 50 feet.

ARTICLE VI Rural Hamlet Zoning District

§ 139-16. Purpose; permitted uses; supplemental regulations.

- A. Purpose and intent. The Rural Hamlet Zoning District is intended to serve residents within a hamlet or similarly developed setting with limited "neighborhood style" retail, personal or service-oriented services. This district may include a mix of the aforementioned services with higher density residential development within an existing or planned water district. Small commercial businesses less

than 2,500 square feet may be in proximity to residential uses, and large-scale businesses of traffic-intensive uses will be discouraged. The interspersing of residential uses in "traditional neighborhood design" is encouraged, including first-floor commercial with second-story residential or professional office space, to enhance or maintain a balanced neighborhood character.

- B. Uses permitted by right with a building permit as required shall be as follows:
- (1) Single-family dwelling on a permanent foundation and its accessory uses and structures.
- C. Uses permitted upon site plan review are as follows: (See Article XXI):
- (1) Retail or personal services.
 - (2) Offices.
 - (3) Delis, pizza shops or restaurants less than 2,500 square feet.
 - (4) Churches.
 - (5) Two-family dwellings.
 - (6) Multifamily dwellings.
 - (7) Service stations serving no more than four vehicles simultaneously.
 - (8) Convenience stores of 2,000 square feet or less.
 - (9) Second- or third-story apartments.
 - (10) Neighborhood-oriented commercial services.
 - (11) Home occupations.
 - (12) Banquet facilities. **[Added 9-10-2012 by L.L. No. 3-2012]**

- D. Uses permitted upon issuance of a special use permit (See § 139-96C):

- (1) Motor vehicle service stations with no gas sales.
- (2) Multifamily dwellings.
- (3) Child day-care facilities, excluding such facilities described in Social Services Law [See § 390, Subdivision 12(b), of the Social Services Law].
- (4) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- (5) Private schools (nursery through college).
- (6) Tourist homes; hostels.

E. Prohibited uses are as follows:

- (1) Convenience stores greater than 2,000 square feet.
- (2) Gas stations that service more than four vehicles simultaneously.
- (3) Drive-in or drive-through services.
- (4) Outdoor sales display or operations.

F. Supplemental regulations shall apply as follows:

- (1) Height, yard, and corner lot exceptions.
- (2) Compliance with Highway and Conservation Overlay Districts.
- (3) Off-street parking and loading.
- (4) Signs.
- (5) Screening and landscaping.
- (6) Accessory uses and structures.

§ 139-17. Dimensional requirements.

The following dimensional requirements apply:

A. Residential structures and uses.

(1) Lots shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Area, minimum (square feet)	20,000	20,000	3,000 per d.u.
Area, with public water and sewer (square feet)	12,500	12,500	
Width, minimum (feet)	80	80	100
Lot coverage (maximum percentage)	30%	25%	50%

(2) Principal structures and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Front yard setback (feet)	80	80	
*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)			
Side yard setback			
One side (feet)	15	15	15
Total both sides (feet)	35	35	35

Regulation	One-Family	Two-Family	Multi-family
Rear yard setback			
Principal structure (feet)	35	35	35
Accessory structure (feet)	10	10	10
Maximum height (feet)	30	30	30

B. Nonresidential uses and structures.

(1) Lots shall meet the following requirements:

- (a) Area, minimum: 20,000 square feet.
- (b) Width, minimum: 100 feet.
- (c) Coverage, maximum: 40%.

(2) Principal structures and accessory structures shall meet the following requirements:

- (a) Front yard setback: 80 feet (measured from the center line of the street unless the highway overlay applies; see § 139-25).
- (b) Side yard setback:
 - [1] One side: 15 feet.
 - [2] Total of both sides: 30 feet.
- (c) Rear yard setback for principal structure: 35 feet.
- (d) Rear yard setback for accessory structures: 10 feet.
- (e) Maximum height: 40 feet.

ARTICLE VII
Residential Zoning District

§ 139-18. Purpose; permitted uses; supplemental regulations.

- A. Purpose and intent. This district is designed to encourage residential development in conjunction with the provision of public water and sewer services. It is to be applied to areas either currently served with public water and sewer services or to sites that are likely to be serviced by public water and sewer as proposed in short-term (five- to ten-year) plans for the provision of essential water and sewer facilities. Provision for open space protection and/or recreation may be provided on an individual site or neighborhood basis. It is intended to promote the formation of neighborhoods in a moderate-density suburban setting as a logical extension to city and village population centers and to promote logical and efficient infrastructure. This district is intended to avoid inefficient land use patterns to avoid and minimize impacts to significant environmental features, agriculture and open space. It is furthermore intended to accommodate the continued use of limited groups of existing lots which preexist zoning codes and which lack either public water or sewer services.
- B. Uses permitted by right with a building permit as required shall be as follows:
- (1) Single-family dwelling on a permanent foundation and its accessory uses and structures.
- C. The following uses are permitted upon site plan review (see Article XXI):
- (1) Two-family dwellings.
 - (2) Multifamily dwellings.
 - (3) Churches.

- (4) Utility substations, telecommunications facilities or wind generators.
 - (5) Public schools.
 - (6) Home occupations.
- D. Uses permitted upon issuance of a special permit are as follows (See § 139-96C):
- (1) Child day-care facilities, excluding such facilities described in Social Services Law [See § 390, Subdivision 12(b), of the Social Services Law].
 - (2) Private schools (nursery through college).
 - (3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- E. Supplemental regulations shall apply as follows:
- (1) Height, yard and corner lot exceptions.
 - (2) Compliance with Highway and Conservation Overlay Districts.
 - (3) Off-street parking and loading.
 - (4) Signs.
 - (5) Screening and landscaping.
 - (6) Accessory uses and structures.

§ 139-19. Dimensional requirements.

The following dimensional requirements apply:

A. Residential structures and uses.

(1) Lots shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Area, minimum (square feet)	20,000	20,000	25,000, plus an additional 3,000 per d.u.
Area, with public water and sewer (square feet)	12,500	12,500	
Width, minimum (feet)	80	80	100
Lot coverage (maximum percentage)	30%	30%	50%

(2) Principal structures and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Front yard setback	80	80	80
*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)			
Side yard setback			
One side (feet)	15	15	15
Total both sides (feet)	30	30	30
Rear yard setback			

Regulation	One-Family	Two-Family	Multi-family
Principal structure (feet)	35	35	35
Accessory structure (feet)	15	15	15
Maximum height (feet)	40	40	40

B. Nonresidential uses and structures.

- (1) Lots shall meet the following requirements:
 - (a) Area, minimum: 40,000 square feet.
 - (b) Width, minimum: 200 feet.
 - (c) Coverage (maximum percentage): 30%.
- (2) Principal structures and accessory structures shall meet the following requirements:
 - (a) Front yard setback: 80 feet (measured from the center line of the street unless the highway overlay applies; see § 139-25).
 - (b) Side yard setback:
 - [1] One side: 15 feet.
 - [2] Total of both sides: 35 feet.
 - (c) Rear yard setback for principal structure: 35 feet.
 - (d) Rear yard setback for accessory structures: 15 feet.
 - (e) Maximum height: 50 feet.

ARTICLE VIII
General Commercial Zoning District

§ 139-20. Purpose; permitted uses; supplemental regulations.

- A. Purpose and intent. This district is intended to provide a full range of wholesale, retail, personal, professional and office services in a well-designed setting. It is primarily to serve as a commercial extension of the Village Central Business District and is intended to serve residents throughout the Town. Uses in this area will rely on adequate access to the state highways system to accommodate employee and business-oriented trips. The district is intended to be situated along State Route 5 on sites that provide sufficient area for buffering from adjoining residential or agricultural land uses.
- B. Uses permitted by right with a building permit as required shall be as follows:
- (1) Changes in occupancy in instances where there is not change of use.
- C. Uses permitted upon site plan review are as follows (See Article XXI):
- (1) Wholesale, retail or personal service uses.
 - (2) Automobile sales, service or repair.
 - (3) Offices.
 - (4) Restaurants.
 - (5) Mortuaries.
 - (6) Hospitals.
 - (7) Nursing homes.
 - (8) Churches.

- (9) Utility substations.
 - (10) Multifamily dwelling units associated with site plan review.
- D. Uses permitted upon issuance of a special permit (See § 139-96C):
- (1) Shopping centers.
 - (2) Drive-in service.
 - (3) Hotels/Motels.
 - (4) Private or indoor recreation.
 - (5) Veterinary treatment facilities.
 - (6) Dwelling units associated with special permit uses.
 - (7) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- E. Prohibited uses are as follows:
- (1) Freestanding dwelling units.
 - (2) Outdoor sales, display or operation for a period of greater than seven days more than four times annually.
- F. Supplemental regulations shall apply as follows:
- (1) Height, yard and corner lot exceptions.
 - (2) Compliance with Highway and Conservation Overlay Districts.
 - (3) Off-street parking and loading.
 - (4) Signs.
 - (5) Screening and landscaping.

- (6) Accessory uses and structures.

§ 139-21. Dimensional requirements.

The following dimensional requirements apply for structures and uses:

A. Lots shall meet the following requirements:

- (1) Area, minimum (square feet): 40,000. **[Amended 3-17-2008 by L.L. No. 1-2008]**
- (2) Width, minimum (feet): 200. **[Amended 3-17-2008 by L.L. No. 1-2008]**
- (3) Lot coverage (maximum percentage): 50%.

B. Principal structures and accessory structures shall meet the following requirements:

Regulation

Front yard setback (feet) 110

*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)

Side yard setback

One side (feet) 20

Total of both sides (feet) 45

Rear yard setback

Principal structure (feet) 40

Accessory structure (feet) 20

Maximum height (feet) 30

ARTICLE IX
Commercial Manufacturing Zoning District

§ 139-22. Purpose; permitted uses; prohibited uses; supplemental regulations.

- A. Purpose and intent. This district is intended for commercial and manufacturing uses that need good highway access and large site areas for buildings, structures, outdoor storage, display or operation. This district is also intended for uses that focus on the movement, storage or processing of raw materials or semi-finished goods to major transportation routes. Retail or nonretail uses that are not reliant upon close proximity to residential areas and which are not generally compatible with residential uses are encouraged in this district. Good access to major transportation routes and separation from and buffering to residential uses is to be encouraged.
- B. Uses permitted upon site plan review (See Article XXI) are as follows:
- (1) Retail or personal service accessory to a wholesale or industrial establishment.
 - (2) Wholesale warehouse establishments.
 - (3) Trucking and transportation terminals.
- C. Uses permitted upon issuance of a special permit (See § 139-96C):
- (1) All uses with the exception of those listed in Subsection D below.
- D. Prohibited uses are as follows:
- (1) Residential uses, except for on-site residency of security or security personnel.

- (2) The operation of stockyards, slaughterhouses and rendering plants.
- (3) The production from raw material of chemicals, cement, paint products, rubber, soaps, starch and the by-products of coal, coke, petroleum and natural gas.
- (4) The reduction, refining, smelting and alloying of metal or metal ores; the distillation of wood or bones; or the reduction and processing of wood pulp and fiber.
- (5) The storage of radioactive material.

E. Supplemental regulations shall apply as follows:

- (1) Height, yard and corner lot exceptions.
- (2) Compliance with Highway and Conservation Overlay Districts.
- (3) Off-street parking and loading.
- (4) Signs.
- (5) Screening and landscaping.
- (6) Accessory uses and structures.

§ 139-23. Dimensional requirements.

The following dimensional requirements apply for structures and uses:

A. Lots shall meet the following requirements:

- (1) Area, minimum (square feet): 80,000.
- (2) Width, minimum (feet): 100.
- (3) Lot coverage (maximum percentage): 30%.

- B. Principal structure and accessory structures shall meet the following requirements:

Regulation

Front yard setback (feet) 100

*(Measured from the center line of the street unless the highway overlay applies; see § 139-25.)

Side yard setback

One side (feet) 30

Total of both sides (feet) 50

Rear yard setback

Principal structure (feet) 50

Accessory structure (feet) 25

Maximum height (feet) 30

§ 139-24. Performance standards.

- A. Fire and explosion hazards. There shall be no activities or storage involving inflammable and explosive materials without adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices. There shall be no burning of waste materials. There shall be no storage of crude oil or any of its volatile products or other highly flammable liquids in aboveground storage except in accordance with all New York State regulations. All such tanks having a capacity of 10,000 gallons or more shall be properly diked with dikes having a capacity equal to 1 1/2 times the capacity of the tanks or tanks surrounded.
- B. Radioactivity. There shall be no activities which emit radioactivity dangerous to health or adversely affecting the operation of any equipment.

- C. Water and air pollution. There shall be no emission into the atmosphere of fly ash, dust, fumes, vapors, gases and other forms of air pollution which can cause damage to life or property or discharge into any sewage-disposal system, or stream, or into the ground of any materials of such a nature or temperature as can contaminate any watercourse, or supply, or can cause any dangerous or unhealthy condition except upon approval of applicable state and or local agencies having jurisdiction to regulate such air or water pollution.
- D. Heat, cold movement of air or dampness. There shall be no activities that produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.

ARTICLE X Highway Overlay District

§ 139-25. Purpose; applicability; dimensional requirements on arterial highways and collector roads.

- A. Purpose and intent. The purpose of this section is to accommodate and promote a pattern of land development that maintains the functional capacity of the highway system and maximizes highway safety and efficiency to accommodate the future land use needs of the community. The intent is to direct land use adjacent to major highways in the Town according to the volume and speed of traffic that is appropriate to the adjoining land use. This section intends to balance the use and design of abutting properties with highway function to protect both from the adverse effects of each other.
- B. Applicability.
- (1) These regulations shall apply to all lots abutting the highways listed below.

- (2) These regulations shall be in addition to the lot, yard, and setback requirements of the underlying zone district regulations.
- (3) In the event that these additional requirements conflict with other sections of this chapter, then the greater or the more restrictive requirements shall apply.
- (4) Setback from streets designated as arterials or collectors shall be measured from the center line of the road right-of-way.

C. Exceptions.

- (1) New lots may be established for one- and two-family dwellings with less lot width than required by this section if the proposed lot or lots provide vehicular access from a driveway, local street, or nondesignated collector, so long as no access is provided to the designated collector or arterial.
- (2) This section shall not apply to any lot within the Hamlet of Vernon Center since those areas in specific zoning districts are characterized by older development patterns which provide compliance with these patterns.
- (3) In the event that a future planned unit development (e.g., PUD, PDD or PDET) is formed within the Town, streets designated as a collector or arterial in this section shall supersede the setback requirements specific to the district in order to preserve the functional hierarchy of the preexisting highway systems.

D. Arterial highways.

- (1) The following highways are hereby designated as arterials:

- (a) New York State Route 5.
 - (b) New York State Route 31.
 - (c) New York State Route 26.
- (2) Principal and accessory structures; dimensional requirements:
- (a) The minimum setback shall be 150 feet from the center line of the highway right-of-way.
 - (b) The minimum lot width shall be 200 feet for common lots and 250 feet for corner lots measured at the lot line.
 - (c) Driveway access shall not be located within 200 feet of the center lines of intersecting roads.
 - (d) The minimum depth of a lot shall increase proportional to lot width.
 - (e) Marginal access, cross access and reverse access drives will be encouraged for industrial, institutional, commercial, retail and multifamily residential development along arterial highways.

E. Collector roads.

- (1) The following highways are hereby designated as collectors:
- (a) Burns Road.
 - (b) Church Road.
 - (c) College Hill Road.
 - (d) Cooper Street.
 - (e) Marble Road.
 - (f) Peterboro Road.

(g) Youngs Road.

(2) Principal and accessory structures; dimensional requirements:

- (a) The minimum setback shall be 130 feet from the center line of the highway right-of-way.
- (b) The minimum lot width shall be 180 feet for common lots and 225 feet for corner lots measured from the center line of the street.
- (c) Driveway access shall not be located within 150 feet of the center lines of intersecting roads.
- (d) The minimum depth of a lot shall increase proportional to lot width.
- (e) Marginal access, cross access and reverse access drives shall be encouraged for industrial, commercial and multifamily residential development along arterial highways.

ARTICLE XI Conservation Overlay District

§ 139-26. Purpose; procedure.

- A. Purpose. The purpose of this overlay district is to delineate areas of the Town which are characterized by important natural features, including but not limited to floodplains, wetlands, stream corridors and unique aesthetic areas.
- B. Review process. The Land Conservation District is an overlay. The uses in the underlying districts are permitted subject to Planning Board review. The review process for this district has two parts. The first step is a determination of the presence and importance of natural features on the proposed development site. If no important natural features are present [i.e., the site is outside the one-hundred-year floodplain (or does not impact an

important natural feature)], detailed review by the Planning Board is not required. If a project falls within a conservation overlay and a sensitive natural condition exists, further review is required.

C. Determination of presence and significance.

- (1) For proposed actions in the Land Conservation Overlay District, additional review and submission requirements may be deemed necessary by the Planning Board. Upon referral of a proposed action in the Land Conservation Overlay District, the Planning Board shall first make a determination of the presence and importance of natural features on the development site. To make this determination, the Planning Board may refer to the Comprehensive Plan, Land Development Plan, HUD, FIA, Flood Insurance Maps, DEC wetland maps, Corps of Engineers' data on flood elevations, cross sections, etc. The Planning Board may consult with other review and permit-granting agencies and professionals to make this determination.
- (2) The natural features to be considered under this section shall include, but not be limited to, floodplains, wetlands, stream corridors, ravines, rock outcroppings, overlooks, unique settings and areas immediately adjacent to such features.
- (3) Review of proposed actions.
 - (a) Proposed actions which are determined to be in an identified floodplain shall be subject to the provisions of Subsection D of this section.
 - (b) Proposed actions which are determined to be in or adjacent to other important natural features may be required by the Planning Board to comply with Article XXI of this code.

- (c) Proposed actions which are determined to be in or adjacent to a wetland area should be referred to the regional office of the Department of Environmental Conservation. The Planning Board should discourage major filing and construction proposals in and adjacent to wetlands.
- D. Procedures for actions in floodplain areas. The provisions of this chapter shall apply to any use or structure located in a floodplain. Such use or structure must also conform to Chapter 68, Flood Damage Prevention.

ARTICLE XII Planned Development Procedures

§ 139-27. Planned development districts (PUD, PDD, PDET).

The following are the types of planned development districts in the Town of Vernon:

- A. PUD: Planned Unit Development.
- B. PDD: Planned Development District.
- C. PDET: Planned Development Entertainment and Tourism District.

§ 139-28. Special procedures for PUD, PDD and PDET Districts. [Amended 12-6-2010 by L.L. No. 1-2011]

- A. Legislative intent. Planned unit development [PUD, PDD or PDET (or any future PID, Planned Industrial District, considered); hereafter, generally referred to as "PUD"] in the Town of Vernon is determined to be beneficial to the community by concentrating development in a given area, thus conserving the open space and rural character of the community. PUD provides for a more coordinated and unified approach to development within the community in

lieu of segmented utilization of land that occurs on a "lot-by-lot" basis. PUD reduces the amount of infrastructure required for land development and the cost of infrastructure maintenance necessary to serve the community. PUD provides flexibility and encourages a variety of land uses and innovative design techniques that otherwise would be restricted by standard use and area regulations contained within the Town of Vernon Zoning Law. Planned unit development shall be encouraged within a floating zone as indicated on the official Town of Vernon Zoning Map, adopted August 22, 2007.

B. Legislative purpose. The Town of Vernon, Oneida County, New York hereby finds and determines that:

- (1) When coordinated with the Comprehensive Plan, planned unit development can be an effective tool for guiding development in ways that support community goals and priorities outlined in the Town of Vernon Community Comprehensive Plan.
- (2) Planned unit development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve optimum compatibility among land uses. Unattainable with traditional municipal zoning techniques, planned unit development provides flexibility in the regulation of land use development in order to:
 - (a) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures;
 - (b) Enhance efficiency in the use of land, natural resources, energy, community services and utilities;

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- (c) Encourage open space preservation and protection of natural resources, historic sites and structures;

- (d) Facilitate the provision of housing and improved residential environments;
 - (e) Enhance the Town's ability to promote business and employment opportunities;
 - (f) Preserve the hierarchy, safety and efficiency of the state, county and Town transportation system within the Town of Vernon;
 - (g) Provide for logical and orderly extensions of water, sewer and utility infrastructure; and
 - (h) Provide for a unified and logical pattern of development to land areas determined to be appropriate for growth as outlined in the Town of Vernon Community Comprehensive Plan.
- C. Special definitions. As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED BOARD OR BODY — The Town Board or Town Planning Board designated by the legislative body to review and act on final planned unit development plans.

FINAL PLANNED UNIT DEVELOPMENT PLAN — An approved preliminary planned unit development plan prepared at such additional detail and showing information as is required by local regulation, and the modifications, if any, required by the legislative body at the time of approval of the preliminary planned unit development plan, if such preliminary plan has been so approved. Final planned unit development plans will be required to follow the policy and procedures of site plan review as described in Part 7 of this chapter and shall be determined to be final by the Town of Vernon Planning Board only after the issuance of a change in zoning designation and approved by the Town Board and authorized by the signature of the Town Supervisor.

FINAL PLANNED UNIT DEVELOPMENT PLAN APPROVAL — The signing of a final plan by a duly

authorized officer of the authorized board or body pursuant to a resolution granting final approval to the plan or after conditions, if any, specified in said resolution granting conditional approval of the plan are completed. Such final approval qualifies the plan for filing in the office of the Clerk as provided herein. Final approval shall be recommended by the Town Planning Board after a favorable recommendation by the Town of Vernon Zoning Board of Appeals and authorized by the Town Board

PLANNED UNIT DEVELOPMENT (PUD, PDD OR PDET)— A site upon which residential, commercial, industrial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the municipal comprehensive plan (see definitions).

PLANNED UNIT DEVELOPMENT DISTRICT— An independent, freestanding zoning district, wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned unit development plan approved by the legislative body.

PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN or GENERAL PROJECT PLAN— A proposal for a planned unit development prepared in a manner prescribed by local regulation showing the layout of the proposed project, including, but not limited to, maps, plans, or drawings relating to proposed land uses, approximate location and dimensions of buildings, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as is required by local regulation; architectural features, lot sizes, setbacks, height limits, buffers, screening, open space areas, lighting, signage, landscaping, parking and loading, traffic circulation, protection of natural resources, public or private amenities, adjacent land uses and physical features, and such other elements as may be required by local regulation.

PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN APPROVAL — The approval with conditions, if any, of the layout of a proposed planned unit development as set forth in a preliminary plan and the simultaneous amendment of the local zoning law or ordinance by the legislative body to create and map a planned unit development district within a predetermined land area designated by the Town of Vernon Community Comprehensive Plan encompassing the preliminary plan; subject to the approval of the plan in final form pursuant to the provisions of this article.

- D. Authority. In addition to any other powers and authority to plan and regulate by zoning, the Town of Vernon hereby enacts requirements for the review of planned unit development plans and the establishment and simultaneous mapping of planned unit development districts pursuant to the provisions of this article.
- E. Elements of approval. The Town Board shall forward the request for a zone change to PUD/PDD/PDET (hereafter referred to as "PUD") to the Planning Board, which shall review a preliminary plan and/or general project plan and make a recommendation to the Town Board to approve or deny the pending application for zone change. Request for a zone change to PUD for a land area greater than 50 acres will require the submission of a general project plan that identifies and addresses all of the issues relevant to SEQRA. Approval of a change in zoning designation is to PUD based upon the general information listed below and shall be granted by the Town Board, based upon a favorable recommendation by the Town of Vernon Planning Board in consultation with the Town of Vernon Zoning Board of Appeals.
- (1) The Town Board, in an effort to predetermine the environmental impacts of the development prior to the issuance of a rezone to PUD, PDD or PDET, shall express preference for these documents as a generic environmental impact statement. However,

submission of a general project plan is optional. If an applicant chooses not to prepare a generic environmental impact statement, each phase of project development will require a full environmental evaluation of all phases (full build-out) of the site plan during site plan review.

- (2) The following information shall be required to evaluate the granting of a zone change to the PUD/PDD or PDET designation:
 - (a) The applicant shall describe the creation of the planned unit development district, including the types of land uses, structures and development density proposed, as well as provisions, if any, relating to cluster development, incentives, bonuses, open space, historic structures and areas.
 - (b) The minimum acreage necessary for the establishment of a planned unit development district shall be requested by the developer and must be based upon a preliminary development plan or general project plan. In no instance shall a planned unit development be bisected by a state highway, county highway or local collector road or include a land area of less than 15 contiguous acres unless the land area is contiguous to an existing planned unit development.
 - (c) All multi-year approvals of final planned unit development plans in phases shall include a schedule for the completion of buildings, public and private facilities and site improvements for the full buildout of the development and shall clearly indicate the phasing of the entire development. All phases shall require an independent site plan review procedure to ensure that compliance with the conditions of the zone change and overall site plan approval

are met and that the Town Planning Board can review any adjustment to the approved plan. However, phases proposed in a general project plan developed as a generic environmental impact statement may not require a full environmental review at the discretion of the Town Planning Board and Zoning Commission if the proposed phases of construction comply with the preliminary site plan included in the general project plan.

- (d) Procedures for evaluating, adopting, reviewing and approving the final planned unit development plans, including any notice and hearing provisions for such amendments, shall be identical to the Town of Vernon site plan review, except that detailed design of each phase may be reviewed during the site plan review process.
- (e) All site plan reviews shall be consistent with the preliminary planned unit development plan or general project plan, unless an amendment is proposed and approved by the Town of Vernon through the same procedure as approving the originating rezone to PUD.
- (f) Include provisions whereby approval of a preliminary and/or final planned unit development plan may lapse or be withdrawn upon failure of the applicant to proceed with the development or otherwise fail to meet conditions of approval.
- (g) Include a draft of all covenants, easements and rights-of-way relating to the site development and/or homeownership, homeowners' associations (HOA) and any lands dedicated to public use within the PUD.

- (h) Upon approval of a zone change to planned unit development (PUD), the Town of Vernon Planning Board shall review the final plans and all phases relating to final approval according to all current site plan review requirements of Article XXI of this chapter.

- F. Compliance with New York State Environmental Quality Review Act (SEQRA). In its review and approval of applications to create planned unit development districts pursuant to this article, the legislative body shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. It is the preference of the Town of Vernon to issue a zone change to PUD/PDD/PDET after the developer submits a preliminary planned unit development plan or general project plan in the form of a generic environmental impact statement to ensure that the proposed project is compatible with the land area and infrastructure surrounding the general project location and to ensure that necessary mitigating factors are evaluated prior to approving a change in allowable land use and density of development.
- G. Methods of procedure. The Vernon Town Board may approve all changes to planned unit development zoning designation after the completion of a review and recommendation from the Town of Vernon Planning Board and Zoning Board of Appeals. The Town of Vernon will consider the following methods of procedure for the review and approval of planned unit developments:
 - (1) Preapplication conference. Before submission of a preliminary application for approval of a planned development district, the developer is encouraged to meet with the Town Planning Board to determine the feasibility and suitability of the application before entering into any binding commitments or

incurring substantial expenses of site and plan preparation.

- (2) Upon the receipt of an application and preliminary plan for the establishment of a planned unit development district, the legislative body shall review the application and preliminary plan in consultation with the Town Planning Board.
- (3) Within 90 days of receiving a completed application (including the preliminary plan, general project plan and/or generic environmental impact statement), and prior to acting on a zoning amendment to create a planned unit development district, the legislative body shall hold one or more public hearings on such proposed preliminary plan and amendment. Notice of the public hearing should be published in a newspaper of general circulation at least 10 calendar days in advance of the hearing. The proposed zoning amendment and preliminary plan shall be made available for public review at least 20 days prior to said public hearing at the office of the Clerk.
- (4) Planning Board review. Within 45 days of the receipt of the application, the Planning Board shall recommend approval, approval with modifications or disapproval of the application to the Town Board. Failure of the Planning Board to act within 45 days or such longer period as may be consented to shall be deemed to be a grant of approval of the plan as submitted. In the event that approval subject to modifications is granted, the applicant may, within 10 days after receiving a copy of the Planning Board's decision, notify the Town Board in writing of his refusal to accept all such modifications, in which case the Planning Board shall be deemed to have denied approval of the application. In the event that the applicant does not notify the Town Board prior to his refusal to accept all said modifications, approval

of the application subject to such modifications shall stand as granted.

- (5) At least 10 days before the public hearing on the application and proposed amendment to the zoning ordinance to create a planned unit development district, the legislative body shall mail notices thereof to the applicant and to the county planning board or agency or regional planning council, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.
- (6) Within 120 days of receiving the application and after holding public hearings, the legislative body shall act to approve, approve with modifications and/or conditions or deny the application, and if approved amend the local law or zoning ordinance to establish and map a planned unit development district. Upon taking such action, the legislative body shall advise the applicant, the authorized board or body and the county planning board or agency, in writing, of its determination within five business days after such action is taken, and place a copy of such letter on file in the office of the Clerk.
- (7) Upon issuance of a zone change to PUD/PDD/PDET, the developer will submit a site plan for his project to the Town Planning Board and will follow the identical standard procedure for site plan review as outlined in Article XXI of this chapter.
- (8) A final planned unit development plan shall be submitted by the applicant to the authorized board or body for review and approval, or approval with modifications and/or conditions. Review of the final planned unit development plan by the authorized board or body shall take into consideration the

preceding action of the legislative body on the preliminary planned unit development plan.

- (9) The authorized board or body's determination on the final planned unit development plan shall be filed in the office of the Clerk within five business days after such decision is rendered, and a copy thereof shall be mailed to the applicant.

H. When effective. This section shall take effect upon its filing in the office of the Secretary of State of the State of New York, and the Clerk is hereby directed to file such local law immediately.

§ 139-29. Special procedures for PDET Districts.

Once a district has been designated a PDET District, it shall be subject to the provisions of § 139-28, and construction of any improvement within the PDET shall be made only upon compliance with an approved general project plan as set forth in § 139-28D and E and "review criteria" set forth as part of § 139-28B and only upon issuance of a building permit in accordance with the procedures set forth in § 139-29D, E and F. The intent for the PDET District differs from the intent of a PUD or PDD District and is unique due to the event-oriented nature of the dominant use as an entertainment and tourist-oriented district.

§ 139-30. Uses within PDET Districts.

A. Uses within a PDET shall be divided into three categories:

- (1) Permitted.
- (2) Permitted by administrative permit.
- (3) Permitted by temporary event permit.

B. Permitted uses.

- (1) The following uses, subject to the following conditions and limitations, shall be permitted without the need for either an administrative or temporary event permit from the Town:
 - (a) Simulcasting.
 - (b) Horse racing.
 - (c) Use of the existing track and stables for racing and related training and caring for horses.
 - (d) Riding academies and stables.
 - (e) Riding and boarding stables.
 - (f) Veterinary hospital, only ancillary to riding and boarding stables.
 - (g) Simulcasting theater.
 - (h) Hotel use.
 - (i) Rest rooms.
 - (j) Training areas.
 - (k) Restaurants.
 - (l) Parking.
 - (m) Accessory uses. Accessory uses shall be incidental and subordinate to the above stated uses.
 - (n) Gaming machines such as slot machines to the extent approved and permitted by the New York State Racing and Wagering Board or other competent authority of the state.
 - (o) Motor sports, including automobile, motorcycle and snowmobile activities. **[Added 12-6-2010 by L.L. No. 1-2011]**

- (2) Permitted uses shall be limited to the use of existing structures. No new structure or alteration of the premises shall be permitted except upon site plan review in accordance with the procedures set forth in § 139-36 and Article XXI. Permitted uses shall be conducted only between the hours of 9:00 a.m. and 10:00 p.m., Monday through Thursday; Friday and Saturday, 10:00 a.m. to 11:00 p.m.; and Sunday, 12:00 noon to 8:00 p.m., to the extent attendance by the public is concerned, except that no time limitation is imposed on the use of the interior of the hotel or parking for uses conducted inside the hotel, and no time limitation is imposed for use by other than the public; for example, training or caring for horses.

C. Uses permitted by administrative permit.

- (1) The following administrative permitted uses, involving no more than one day in duration and no more than 8,000 persons, shall be permitted in the Planned Development Entertainment and Tourism District only upon the issuance of an administrative permit by the ZEO: **[Amended 12-6-2010 by L.L. No. 1-2011]**
 - (a) Fairs.
 - (b) Sporting events.
 - (c) Concerts.
 - (d) Fireworks.
 - (e) Craft shows.
 - (f) Car shows.
- (2) The ZEO may issue such an administrative permit upon application for such use in accordance with the provisions of § 139-31 of this chapter. The form of such application shall be prescribed by the Town

Planning Board in consultation with the Town ZEO so that the application will set forth sufficient information concerning the proposed use to enable the ZEO to determine whether the use will be conducted in a safe and healthy manner and without disrupting the community at large.

D. Uses permitted by temporary event permits.

- (1) Temporary event uses shall be any use stated in § 139-30C(1) (Uses permitted by administrative permit) likely to exceed the threshold of attendance by 8,000 people or duration more than 24 hours. Such uses shall be permitted in the Planned Development Entertainment and Tourism District only upon the issuance of a temporary event permit by the ZEO.
- (2) The ZEO may issue such a temporary event permit upon application for such use in accordance with the provisions of § 139-31 of this chapter. The form of such application shall be prescribed by the Town Planning Board in consultation with the Town ZEO so that the application will set forth sufficient information concerning the proposed use to enable the ZEO to determine whether the use will be conducted in a safe and healthy manner and without disrupting the community at large.

§ 139-31. Issuance of administrative or temporary event permits.

The ZEO will consider the following criteria when determining whether to issue an administrative permit or a temporary event permit:

- A. All applications for an administrative permit or a temporary event permit shall set forth:

- (1) Hours of operation. Uses permitted by administrative permit or temporary event permit shall be limited to the same hours of operation as

apply to the permitted uses set forth under § 139-30B unless the application for the permit demonstrates the need to exceed those hours of operation and sets forth detailed methods by which the applicant will prevent the activity outside of regular hours of operation from disturbing the peace and quiet of the neighborhood. A permit allowing operation beyond the regular hours of operation may be granted only if the applicant demonstrates there is no reasonable alternative and that the early- or late-hour activities will not disturb the neighborhood.

- (2) Noise: not to exceed the requirement of § 139-33.
- (3) Traffic, safety and security: provision for police or other reliable traffic direction as well as control of internal security or a reasonable explanation why such is not necessary, together with plans showing the location of parking sufficient to accommodate the number of persons likely to attend, including an estimate of the persons likely to attend with a basis for such estimate; if no police or other internal security force is to be provided, an explanation as to why such is not believed necessary; if police or other internal security is to be provided, identification of the persons or organizations to provide such police or other security as well as the number of such forces to be employed; by use of a map or other graphic representation, a plan showing the areas where the anticipated automobile traffic will park, together with a route map showing the manner in which the automobiles will arrive and depart.
- (4) Sanitary plan. The applicant shall present a detailed sanitary plan setting forth the number and nature of toilet facilities and a projected calculation demonstrating that such facilities will be adequate for the number of persons expected to attend.

- (5) The date or dates and the hours during which the activity is to be conducted and the total time period.
- (6) The program and plans of the activity in its entirety, with particular emphasis on the following:
 - (a) Detailed plans for parking facilities off public roadways able to serve all reasonable anticipated requirements at a rate up to 100 passenger cars per acre or 30 buses per acre.
 - (b) The total number of persons permitted at the event, including performers, staff members and audience, which shall be determined by providing a net assemblage area of at least 50 square feet per person.
 - (c) A plan for limiting attendance, including methods of entering the area, number and location of ticket booths and entrances and provisions for keeping non-ticket holders out of the area.
 - (d) A statement of agreement to complete all construction and installation of services and facilities, including water supply, toilet and hand-washing facilities, sewage disposal, roads, food service equipment and refuse handling facilities, and all work for noxious weed and insect control, at least 48 hours prior to the commencement of the event.
 - (e) A detailed plan for the use of signs to locate all facilities and roadways.
 - (f) A statement from the local fire authorities having jurisdiction over the area verifying that they are aware of the event and are willing to cooperate if needed.
 - (g) A detailed plan for emergency situations, including:

- [1] Food supplies.
 - [2] Medical supplies, facilities and personnel.
 - [3] Evacuation plan.
 - [4] Emergency access roads.
- (h) A detailed plan for the elimination of noxious weeds 48 hours before commencement of the event.
- (i) The location and construction of toilet and hand-washing facilities designed to serve fully all reasonable anticipated requirements at a rate of no more than 100 persons per toilet seat and 750 persons per hand-washing facility, 50% of the male toilets to be urinals; and plans for construction and reports, including copies of all rental and service contracts, showing that the construction and operation constitute no threat of pollution of surface or underground water locations, to be attached.
- (j) The location and construction of water-supply facilities, designed to serve fully all reasonably anticipated requirements at a rate of one pint of potable water per person per hour, for the maximum estimated hourly attendance. One tap and one drinking fountain shall be provided per 1,000 persons and shall be located with adequate soaking pits or drainage.
- (k) Detailed plans for internal storage and collection of refuse, including provisions for disposal and cleaning the property and immediate surrounding properties within 48 hours after the event.
- (l) Detailed plans for emergency first aid to serve fully all reasonably anticipated requirements. Such plans shall state arrangements made with

hospitals and ambulances in the area, including names and locations, the number of doctors and nurses at the site and on call and arrangements made with all other medical personnel and facilities, either at the site or on call.

- (m) Detailed plans for lighting designed to illuminate the public areas of the site at all times and demonstrating that the lighting will not reflect on any areas beyond the boundary of said site.

- B. To the extent any activity regulated hereunder is also under the regulation of the Department of Health of State of New York or the County of Oneida, notification of the County Health Department and compliance by the applicant with the regulations of such departments shall be deemed compliance with this chapter but only if such State or County Health Department has promulgated a regulation governing the activity in question.

§ 139-32. Permit fees and procedures for administrative permits and temporary event permits in PDET Districts.

- A. Applications for permits shall be on forms specified by the Town.
- B. Fees. Applications for administrative use permits shall be accompanied by a fee of \$500 issued to the Town Clerk in two separate checks in the amount of \$250 each and for temporary event use permits a fee of \$1,000 issued to the Town Clerk in two separate checks in the amount of \$500 each. Two hundred fifty dollars of the \$500 application fee and \$500 of the \$1,000 application fee shall be refunded to the applicant upon the completion of the use in question in substantial compliance with all applicable federal, state, county and Town laws, ordinances, rules and regulations, and also having complied substantially with all representations made by the applicant with respect to the

nature and extent of the use for which a permit was granted.

- C. Insurance and bonds. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damages to person or property with limits of not less than \$1,000,000 for bodily injury or death, and limits not less than \$500,000 for property damage, sufficient in form to save the Town harmless from any liability or causes of action which might arise by reason of granting of the permit or any inspections, review or other involvement on the part of the Town having to do directly or indirectly with the issuance of the permit or activities conducted by virtue of the permit.
- D. Applications for permits. Applications for administrative use permits shall be submitted at least 60 days, and for temporary event use permits at least 120 days, before the first use for which the permit is sought is to commence.
- E. Processing application. The Code Enforcement Officer of the Town shall grant, deny, or grant with conditions any such application within 10 days of the filing of the application. If the application is denied or granted with conditions, the applicant shall have five days to apply for a review of such determination to the Planning Board, which request for review shall be delivered to the Clerk of the Planning Board on or before the expiration of such five-day period, whereupon the Planning Board is authorized to make such determination as the Code Enforcement Officer should have made. The Planning Board's determination shall be made within 30 days of the application for review.

§ 139-33. Noise limitations within PDET Districts.

All activities and uses within the PDET shall be conducted subject to the following noise limitations:

- A. For the purpose of these noise control provisions, certain terms are defined as follows:

NOISE LEVELS — The maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using the "A" weighting scale, and the meter response function set to "slow."

PRECISION SOUND LEVEL METER — A device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard 1.4, "Specifications for Sound Level Meters."

SOUND LEVEL — Expressed in decibels (dB), is a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard 1.1, "Acoustic Terminology," Paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighting scale, abbreviated "DBA," measured as set forth in this section.

- B. None of the uses in the PDET, whether permitted or permitted under an administrative permit or temporary event permit, shall produce a noise level more than 90 dB more than 150 feet from the source of the noise. The owner shall measure and record noise level data and shall keep such recorded noise data available for at least one calendar year or submit such data to the Zoning Enforcement Officer for storage. When requested by the ZEO, the owner shall provide access to the facility by the ZEO for observation of noise level monitoring and for the conduct of independent noise level monitoring by the ZEO. Noise level data shall be recorded and maintained only with respect to intentionally amplified sound such as music or loudspeaker emanations and shall be measured within 150 feet of the source.

C. The following noise sources shall be exempt from this noise restriction:

- (1) Safety devices. Aural warning devices that are required by law to protect the health, safety and welfare of the community.
- (2) Emergencies. Emergencies are exempt from this provision, such as fire, police or ambulance sirens.

§ 139-34. General provisions.

- A. The planned development process consists of two basic steps: first, the change of zoning district designation; second, review of the specific site plans for the area as set forth in Article XXI.
- B. Any change to a planned development (PD) district shall be based on a specific development proposal. Although the designation for all planned development will be PD, each district will reflect the type of use which was the basis for the zone change (i.e., PUD, PDD, or PDET).

§ 139-35. Application fee and submission requirements.

- A. Application fee. Application for the establishment of one of the planned development districts shall be made to the Town Board. Each application shall be accompanied by a fee of \$150. The Town Board shall refer the application and all application materials to the Town Planning Board within 15 days of the application.
- B. Submission requirements. Application to the Town Board must include a petition for the zone change. The applicant must provide proof of full legal and beneficial ownership of property or proof of an option or contractual right to purchase the property. The preliminary plan shall include, but not be limited to, the following:

- (1) A completed short environmental assessment form (EAF) to comply with the provisions of the state environmental quality review process (SEQR).
 - (2) A mapped preliminary development plan or general project plan of the property in question as set forth in § 139-28C and D. Such a plan shall include all existing structures, roads and other improvements and shall indicate the circulation concept, general site location of all proposed structures, general parking scheme, the approximate acreage in each type of use and the amount, proposed use and location of all open space and recreation areas. This plan shall also indicate the location of all utilities and proposed expansions and/or any alternative concepts for dealing with water supply, sewage disposal, stormwater drainage and electric service.
 - (3) The applicant must demonstrate that alternative design concepts have been explored.
 - (4) A written description of the proposal, including the major planning assumptions and objectives, the probable effect on adjoining properties and the effect on the overall Town Development Plan.
 - (5) A written description of the probable impacts on the natural systems of the Town.
 - (6) A written description of the probable fiscal impacts, including a summary of new costs and revenues to the Town due to the development.
- C. Review criteria. In considering the application for the creation of a planned development district, the Planning Board may require such changes in the preliminary plans and specify such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the community. In reaching its decision on the proposed

development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:

- (1) The need for the proposed land use in the proposed location.
- (2) The existing character of the neighborhood.
- (3) The location of principal and accessory buildings on the site in relation to one another and in relation to buildings and uses on properties adjoining the proposed district.
- (4) The general circulation and open space pattern relative to the structures.
- (5) The traffic circulation features within the site and the amount, location and access to automobile parking areas.
- (6) The environmental factors on the environmental assessment form (EAF).

D. Planning Board action. Establishment of a planned development district is a rezoning action and may be subject to the state environmental quality review process (SEQR). Therefore, the Planning Board should make a two-part recommendation to the Town Board as part of this process.

- (1) First, the Planning Board should identify the type of action the zone change is according to SEQR regulations. Depending on the size of the zone change and several other factors, it may be a Type I or an unlisted action. To make a decision, the Planning Board should consult Part 617 of Title 6 of the New York Codes, Rules and Regulations. The Planning Board should advise the Town Board of this determination and any responsibilities of the Town Board.

- (a) If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement has been completed. When the draft environmental impact statement is completed, the time frame for Planning Board review begins (45 days).
 - (b) If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.
- (2) The second part of the recommendation is a decision on the zone change itself based on the review criteria per Subsection C of this section. The decision of the Planning Board shall be in the form of a written resolution which shall include findings of fact and shall set forth the reasons for granting or denying tentative approval, specifying with particularity in what respects the proposal contained in the application would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
- (a) In what respects the plan is or is not consistent with the statement of purpose set forth in § 139-28B.
 - (b) The extent to which the proposal departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
 - (c) The nature and extent of the common open space in the planned development district, the reliability of the proposals for maintenance and

conversion of such open space and the adequacy or inadequacy of the amount and function of the open space in terms of the densities of residential uses and the types thereof where residential uses are proposed.

- (d) The plat of the proposal and the manner in which such plat does or does not make adequate provision for public services, control over vehicular traffic and the amenities of light and air and visual amenities.
 - (e) The relationship, beneficial or adverse, of the proposed planned development district upon the neighborhood in which it is proposed.
 - (f) In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect the interests of the public and the residents of the district in the integrity of the plan.
- E. The resolution required by Subsection D(2) of this section shall be filed with the Town Clerk and shall be available during regular office hours for inspection by any interested person.
- F. Upon the filing of such resolution with the Town Clerk, the Town Board shall, within 30 days, hold a public hearing on said proposal after giving the public notice required by law.
- G. The Town Board may thereafter amend this chapter so as to establish the proposed planned development district and define the boundaries thereof. Such action shall have the effect only of establishing a planned development district for the use proposed by the applicant. Such amendment of this chapter shall not constitute or imply a permit for construction or final approval of plans.

- H. In the event that construction has not commenced within two years from the date that the Zoning Map amendment establishing the planned development district became effective, the Planning Board may so notify the Town Board and the Town Board may, on its own motion, institute a Zoning Map amendment to return the planned development district to its former classification pursuant to Article XXIV of this chapter.

§ 139-36. Detailed plan review; site plan review.

The procedures for site plan review within an approved PUD (PUD, PUDD, PID, PDET) shall comply with Article XXI of this chapter, except that general project plans developed as a generic environmental impact statement may require further environmental review under SEQRA at the discretion of the Town Planning Board. Completion of § 139-35 to change a zone to a PDET District does not imply approval to proceed with actual development of the area. Upon approval of the rezoning request, the applicant is required to follow the procedure explained in Article XXI of this chapter.

**Part 3
Bulk Requirements**

**ARTICLE XIII
Bulk Regulations**

§ 139-37. Applicable regulations.

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are as specified in Article IV through Article IX. All permitted uses are subject to the regulations appearing in Article IV, Article V, Article VI, Article VII, Article VIII, Article IX, Article X, and Article XI, and additional regulations as follows.

§ 139-38. Nonconforming lots.

- A. Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimensional requirements.
- B. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of a width less than 24 feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

§ 139-39. Encroachments and minimum lot area.

The minimum yards and open spaces, including lot area per family, required by this chapter for any building existing at the time of adoption of this chapter or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirement of this chapter.

§ 139-40. Corner lots.

On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets and shall be 150% larger in land area than a standard lot, as set forth in § 139-71C. Corner lots within a Highway Overlay District shall have equal front yard setback as those required for the overlay district. One rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his application for a zoning permit.

The Board of Appeals shall determine the yards and building width of a corner lot of record at the time of the passage of this chapter if the yard requirements would result in a residential structure less than 24 feet wide.

§ 139-41. Transition yard requirements.

- A. Where two districts abut on the same street between two intersecting streets and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to the average required depth in the two districts.
- B. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restrictive district.

§ 139-42. Exception to transition yard requirements.

Where two districts abut on the same street between two intersecting streets and the front yard requirements of one district are less than those of the other district, and one or both districts are within the H-O Highway Overlay District, the highway overlay controls will take precedence over either district.

§ 139-43. Projecting architectural and landscape features.

- A. The space in any required yard shall be open and unobstructed except for the ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such

features shall not project more than 30 inches into any required yard.

- B. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six feet in height.
- C. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches or porches open at the side but roofed shall be considered a part of the building.
- D. An open fire escape may extend into any required yard not more than six feet, provided that such fire escape shall not be closer than four feet at any point to any lot line.
- E. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six feet.
- F. In any district, no fence, hedge, or wall shall exceed four feet in height in any front yard, or six feet in height in any side or rear yard, and provided further that such fence, hedge, or wall shall be no closer to any lot line than three feet. The decorative or finished side of any fence shall face outward from the lot.
- G. No wall, fence, landscape structure, grading, or drainage activity shall cause a diversion of drainage to adjoining public or private property.
- H. Barbed wire or other fences maintained by a farmer for the purpose of fencing a field or pasture to enclose crops, livestock, or other agricultural uses, including woodlots, are exempt from this § 139-43 in that such a fence may be constructed and maintained on the property line so long as it does not encroach on an adjoining landowner's property.
[Added 5-14-2012 by L.L. No. 2-2012]

§ 139-44. Exceptions to height limitations.

The height limitations of this chapter shall not apply to farm structures, silos, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimney's, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features however shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.

§ 139-45. Accessory buildings, structures and outdoor appliances.

- A. No accessory structure shall be permitted without the presence of an approved principal structure.
- B. Farm structures shall be exempt from the provisions of this section except for front yard setbacks in the A and AR Zoning Districts.
- C. Number. There shall not be more than two accessory buildings on each parcel intended or used for residential purposes.
- D. Height. For R-1 Residence Districts, the maximum height of accessory buildings shall not exceed the height of the principal structure.
- E. Attached accessory buildings in residence districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.
- F. Outdoor wood-fired boilers (OWBs) are prohibited outside of the Town's Agricultural (A) Zoning District.

- G. Accessory buildings in Commercial and Manufacturing Districts. Non-dwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet.

- H. No outdoor appliance shall be located within 500 feet of a neighboring residence or be located in a manner that impacts the air or water quality of adjoining property.

Part 4
Parking and Loading Regulations

ARTICLE XIV
Off-Street Parking and Loading

§ 139-46. Off-street parking.

- A. Off-street parking space shall be required for all buildings constructed or new uses established after the effective date hereof. Each off-street space shall consist of at least 180 square feet with a minimum width of nine feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in Schedule A below.
- B. Twenty-five percent of the parking development may be constructed for compact cars, where each space shall consist of at least 135 square feet and be eight feet in width.
- C. For uses not specified, the Board of Appeals shall, on appeal and after recommendation of the Planning Board, establish parking requirements in specific cases consistent with the recommendations of the Town Engineer.
- (1) For any building having more than one use, parking space shall be required as provided for each use.
 - (2) Floor areas, for the purpose of computing parking requirements, shall be the sum of the horizontal area of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

Schedule A
Off-Street Parking Requirements

Use	Spaces Required
Dwelling	1 for each dwelling unit
Senior housing	1 for each unit plus 1 for each 1,000 square feet of floor area
Rooming house, tourist home, motel or hotel	1 for each guest room
Administrative, professional, eleemosynary (e.g., relating to charity), governmental or utility office	1 for each 400 square feet of floor area
Funeral home	10 for each reposing room
Church or temple	1 for each 5 seating spaces in main assembly room
School	2 for each elementary classroom 5 for each secondary classroom
Theater or other places of assembly	1 for each 5 seating spaces
Nursing or convalescent home	1 for each 4 beds
Retail store or bank	1 for each 400 square feet of floor area
Clubs and restaurants	1 for each 50 square feet of floor area
Bowling alley	5 for each alley
Wholesale, storage, freight terminal or utility use	1 for each 1,000 square feet of floor area
Industrial or manufacturing use	1 for each 2 employees on the maximum working shift

§ 139-47. Off-street loading.

- A. At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described in § 139-46. Space for off-street loading shall be in addition to space for off-street parking and should be located in a manner that does not encroach upon traffic, circulation drives or vehicle parking.
- B. Each facility shall be subject to the following minimum requirements:
- (1) Each berth shall not be less than 12 feet wide, 33 feet long and 14 feet in height if covered.
 - (2) Space for such berth may occupy any part of any required side or rear yard, except that no such berth shall be located closer than 100 feet to any lot in any resistance district unless wholly within a completely enclosed building.

**Part 5
Nonconformities**

**ARTICLE XV
Nonconforming Uses and Structures**

§ 139-48. Continuation.

Except as provided in §§ 139-49 and 139-50 of this article, any use of land or a building or structure or part thereof legally existing at the time that this chapter or part thereof or any amendment hereto becomes effective may be continued, subject to the provisions of §§ 139-51, 139-52, and 139-53 of this article, although such building or structure or use does not conform to the provisions of the district in which it is situated.

§ 139-49. Abandonment.

When a nonconforming use has been discontinued or abandoned for a period of one year or longer, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this chapter. All farms are exempt from the provisions of this section.

§ 139-50. Junkyards and billboards.

Notwithstanding any other provision of this chapter, any automobile or other junkyard or any billboard or nonconforming sign or advertising device in existence in a residence district at the time of the adoption of this chapter or an amendment hereto shall be discontinued within one year from the date of such adoption or amendment.

§ 139-51. Change in use.

A nonconforming use may be changed to another nonconforming use of the same or higher classification according to the provisions of this chapter, and when so changed such use shall not thereafter be changed to a nonconforming use of a lower classification. The classifications of uses in ascending order are C-M, C-1, R-MHP, R-1, R-H and A (AR, for future use).

§ 139-52. Maintenance of use.

A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public and as not to constitute a nuisance beyond that generally inherent in such a nonconforming use in the district in which it is situated. Proposed alterations and extensions of the nonconforming use shall be reviewed by the Zoning Board of Appeals to ensure that such alteration or extension shall not tend to increase the inherent nuisance and that such alteration or extension shall not violate any provisions of this chapter regarding yards, lot

area or lot coverage for the district in which it is situated or to increase any existing violation of such provisions.

§ 139-53. Restoration.

Nothing herein shall prevent the substantial restoration within one year and continued use of a nonconforming building or structure damaged by fire, flood, earthquake, act of God or act of the public enemy, provided that such restoration shall comply with the provisions of § 139-52 of this article. All farms are exempt from the provisions of this section.

**Part 6
Subdivision Regulations**

**ARTICLE XVI
Policy; Summary of Procedures**

§ 139-54. Declaration of policy.

By the authority of the resolution of the Town Board of the Town of Vernon adopted on November 8, 1984, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Vernon is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and/or the Town and to approve preliminary plats within that part of the Town of Vernon outside the limits of any incorporated city or village. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that

all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as and which may be cited as the "Town of Vernon Land Subdivision Regulations," have been adopted by the Planning Board on October 1, 1984, and approved by the Town Board of Vernon.

§ 139-55. Summary of Procedures

- A. Town of Vernon Planning Board approval of any subdivision of land into five or more parcels (that is, falling within the definition of "subdivision" contained in § 139-2) shall be evidenced by a final plat containing all required signatures and prepared by a lawfully practicing licensed land surveyor (LS). Upon authorization by the Town Board, the final plat shall be filed in the office of the Oneida County Clerk. Filing of the final plat shall be a prerequisite to the issuance of any building permit, certificate of occupancy or preparation of any parcel for the construction and approved use of the land. **[Amended 10-12-2009 by L.L. No. 2-2009]**
- B. All subdivision of land within the Town of Vernon will be required to be initiated and processed in accordance with the following major milestones and procedures set forth in the subdivision approval process; an informal preapplication procedure is recommended for all applications but may be waived at the discretion of the Vernon Planning Board: (1) sketch plan procedure; (2) preliminary plan (plat) procedure; (3) final plan procedure.

- (1) The developer shall file a sketch plan that shall be discussed at the next regular meeting of the Planning Board. The purpose of the sketch plan conference shall involve an initial discussion concerning the developers' intent concerning use, layout, and potential impacts to traffic safety, availability of utilities, infrastructure, services and the responsibility for required improvements.
- (2) (Reserved)⁴
- (3) The developers shall obtain the Planning Board's approval or disapproval of a preliminary plat (plat) following a public hearing and shall either install all required street and utility improvements or bond their completion as a condition of obtaining final approval of the final plat. Under no circumstances shall the preliminary plat approval for a subdivision be granted until a determination of significance can be issued by the Planning Board in accordance with the New York State Environmental Quality Review Act. There shall be no alternate procedure for granting final approval for a subdivision.
[Amended 10-12-2009 by L.L. No. 2-2009]

ARTICLE XVII

Application Procedures

§ 139-56. Approval required.

Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in each subdivision or any part thereof is made, and before any permit required for site development or the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing

4. Editor's Note: Former Subsection B(2), Minor subdivisions, was repealed 10-12-2009 by L.L. No. 2-2009.

for approval of such proposed subdivision in accordance with the following procedures.

§ 139-57. Sketch plan.

- A. Preapplication conference. Prior to the submission of any official application, prospective subdividers shall attend one of the regular meetings of the Planning Board to discuss the general requirements and design standards for subdivisions, the classifications of subdivisions and application procedures.
- B. Submission of sketch plan. Any owner of land shall, prior to subdividing or resubdividing or combining parcels of land, submit to the ZEO or Planning Board Chair at least 10 days prior to the regular meeting of the Board two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § 139-74.

- C. Discussion of requirements. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations and the submission of information necessary to satisfy the New York State Environmental Quality Review Act (SEQRA) (e.g., to determine mitigation of proposed development impact, street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information).
- D. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations in writing, to be incorporated by the applicant in the next submission to the Planning Board.

§ 139-58. Environmental impact assessment.

- A. Article 8 of the Environmental Conservation Law, State Environmental Quality Review Act (SEQRA), requires that all local governments evaluate the environmental impacts of their own acts and those of persons seeking funding or permits from them. Article 8 and Part 617 of Title 6 of the New York Codes, Rules and Regulations under the Act, and subsequent amendments, are adopted herein by reference.
- B. All subdivisions shall require submission of an environmental assessment form (EAF) for review by the Planning Board (e.g., full EAF or short-form EAF). Using this form, together with any other available information, the Planning Board shall determine whether or not the proposed action may have significant effect on the environment (e.g., Type I action, Type II action or unlisted action).
- C. An application for subdivision review shall not be considered complete until such time as the provisions of

SEQR as described in Part 617 of Title 6, NYCRR, have been complied with.

§ 139-59. Preliminary plat; fee.

A. Application and fee.

- (1) Prior to the filing of an application for the approval of a subdivision plat, the subdivider shall file an application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in § 139-75 hereof. The preliminary plat shall in all respects comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law and § 139-75 of these regulations, except where a waiver may be specifically authorized by the Planning Board.
- (2) The application for approval of the preliminary plat shall be accompanied by a fee of \$25, plus \$150 per lot for each lot in the proposed subdivision.
- (3) Any costs incurred by the Planning Board due to the need for consulting services or other review costs in excess of the amount of the initial application fee shall be paid by the applicant.

B. Number of copies. Five copies of the preliminary plat shall be presented to the Clerk of the Planning Board at the time of submission of the preliminary plat.

C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

D. Study of preliminary plat. The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention

shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Town of Vernon Community Comprehensive Plan (adopted by resolution November, 2005) and the Town Zoning Ordinance.

- E. When officially submitted, the time of submission of the preliminary plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by § 139-75 of these regulations, has been filed with the Clerk of the Planning Board.
- F. Approval of the preliminary plat.
 - (1) Within 62 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. Prior to the granting of preliminary plat approval, all information necessary for the Planning Board to make a determination of significance under SEQRA shall be satisfied. Upon submission of a complete application, a determination of significance and receipt of a recommendation from the Oneida County Department of Planning under §§ 239-l, 239-m and 239-n of the General Municipal Law, the requirements for plat approval shall be met. Within 62 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat, and the ground of a modification.

- (2) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to: the modifications to the preliminary plat; the character and extent of the required improvements which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds thereof which it will require as prerequisite to the approval of the subdivision plat. Preliminary plat approval shall not be granted, based upon conditions relating to SEQRA requirements. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design (e.g., footprint) submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 139-60. Final subdivision plat; fee.

A. Application for approval and fee.

- (1) The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank available from the Clerk of the Planning Board. All applications for plat approval for subdivisions shall be accompanied by a fee of \$100. Any costs incurred by the Planning Board due to the need for consulting services or other review costs in excess of the amount of the initial application fee shall be paid by the applicant.

- (2) If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the preliminary plat.
- B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Clerk of the Board with a copy of the application and three copies (one copy in ink on linen or an acceptable equal) of the plat, the original and one true copy of all offers of cession, covenants, easements and agreements and two prints of all construction drawings.
- C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date on which the application for approval of the subdivision plat, complete, including all information necessary to make a determination of significance and accompanied by the fee and all data required by § 139-75 of these regulations, has been filed with the Clerk of the Planning Board.
- D. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the Oneida County Department of Health and/or the New York State Department of Environmental Conservation. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, county and state agencies. Endorsement and approval by the Oneida County Department of Health and/or the New York State Department of Environmental Conservation shall be secured by the subdivider before official submission of the subdivision plat. All recommendations by the Oneida County Planning Department under General Municipal Law §§ 239-l, 239-m and 239-n shall be received prior to action on the proposed plat.
- E. Public hearing. Within 62 days of the submission of a plat in final form for approval, a public hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the

Town at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § 139-59 of this article and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

F. Action on proposed subdivision plat.

- (1) The Planning Board shall by resolution approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board if no hearing is held or, in the event a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.
- (2) Conditional approval.
 - (a) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office, and a copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. The final plat will be filed with the CEO/ZEO upon approval. Conditional approval shall not be granted for:

- [1] Resolution of engineering issues or issues involving public health, safety, and welfare by the Town's Engineer or professional consultants.
 - [2] Issues affecting a determination of significance under SEQRA.
- (b) Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

§ 139-61. Required improvements.

A. Improvements and performance bond.

- (1) Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1)(a) or (b) below:
 - (a) In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or file a performance bond with the Town Clerk to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and, further, shall be satisfactory to the Town Board and Town

Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

- (b) The subdivider shall complete all required improvements to the satisfaction of the Town Highway Superintendent, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file a bond or certified check with the Town Clerk, covering the costs of such improvements and the cost of satisfactorily installing any improvements not approved by the Town Highway Superintendent. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.
- (2) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Highway Superintendent and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(1)(b), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1)(a), such bond shall not be released until such a map is submitted.

- B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Highway Superintendent that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Highway Superintendent may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town Highway Superintendent shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- D. Proper installation of improvements. If the Town Highway Superintendent shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No

plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 139-62. Filing of approved plat.

- A. Final approval and filing. Upon completion of the requirements in §§ 139-60 and 139-61 above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not filed or recorded within 60 days of the date upon which the plat is approved, or considered approved by reasons of the failure of the Planning Board to act, shall become null and void.
- B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat unless the plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 139-63. Public streets and recreation areas.

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Town of such area. The

Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

§ 139-64. Reservation and declaration of lands for public use.

- A. To meet the Town's growing need for future recreational facilities generated by residential growth, the Town of Vernon shall require the reservation and dedication of at least 10% of the area of land to be subdivided for park, playground, recreation, open land or other public purposes. In locating lands to be reserved and dedicated, the Board shall consider preservation of special environmental and geographic features, unsuitability of certain lands for building purposes, future expansion of public use lands upon development of adjoining areas, the most appropriate type of public land use to the area and the conditions necessary to preserve access, use and maintenance of such lands for their intended purpose.
- B. Such lands may be retained in private ownership, provided that they are permanently dedicated and maintained for their intended use by recorded covenant and security deemed adequate to the Town Board. Alternatively, lands may be offered to the Town as a gift to be accepted at the discretion of the Vernon Town Board.
- C. In the event that the Planning Board determines that reservation of land of adequate size and suitable purpose cannot be practically located in a proposed subdivision, the Board may condition its approval of the subdivision upon payment to the Town of a fee of \$350 per lot, which sum shall constitute a trust fund of the Town to be used exclusively for the acquisition and development of parks, playgrounds, recreation or open land areas in the Town as

near as practicable in the general vicinity of and for the benefit of occupants of the subdivision from which the sum was derived.

§ 139-65. Clustering.

Whereas pursuant to resolution of the Town Board the Planning Board is empowered to modify applicable provisions of the Zoning Ordinance in accordance with the provisions of § 281 of the Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards:

- A. Request for subdivider. A subdivider may request the use of § 281 of the Town Law of New York State simultaneously with or subsequent to presentation of the sketch plan as per procedures described in this article. Any submission subsequent to preliminary approval of a plat shall require a reapplication for sketch plat review.
- B. Sketch plan. A subdivider shall present, along with a proposal in accordance with the provisions of § 281 of the Town Law of New York State, a standard sketch plat which is consistent with all the criteria established by these Subdivision Regulations, including but not limited to streets being consistent with the street specifications and lots being consistent with the Zoning Ordinance.
- C. Park, recreation, open space or other municipal purposes. If the application of this procedure results in a plat showing land available for park, recreation, open space or other municipal purposes directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth by the Planning Board.

- D. Plat submission. Upon a determination that such sketch plat is suitable for the procedures under § 281 of the Town Law of New York State and subsequent to the resolution authorizing the Planning Board to proceed, a preliminary plat meeting all of the requirements of the resolution shall be presented to the Planning Board, and thereafter the Planning Board shall proceed with the required public hearings and all other requirements of these regulations.
- E. Filing, notation on Zoning Map. Upon the filing of a plat in the office of the County Clerk in which § 281 of the Town Law of New York State has been used, the subdivider shall file a copy with the Town Clerk, who shall make appropriate notations and reference thereto in the Town Zoning Ordinance Map. The Secretary of the Planning Board shall notify the Town Enforcement Officer when such a plat is filed.

ARTICLE XVIII

Design Standards and General Requirements

§ 139-66. Standards regarded as minimum requirements.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article XX herein.

§ 139-67. General requirements.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Conformity to the Zoning Ordinance and Comprehensive Plan. Subdivisions shall conform to the Zoning Ordinance

of the Town and shall be in harmony with the Comprehensive Plan.

- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Highway Superintendent.

§ 139-68. Streets and roads.

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and afford access for fire-fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along major arterial and collector streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage consistent with the Town's major highway overlay controls. In addition,

required screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations. On lots containing five or more potential lots, road front land area shall require a dedicated right-of-way, 60 feet upon the subdivision of 30% of the parcels adjacent to the road right-of-way for access to the rear portion of the originating parcel to provide ingress/egress for the purposes of farming and future subdivision or resubdivision of land.
- F. Dead-end streets. The creation of dead-end streets shall be discouraged. Loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a two-hundred-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets or streets on an approved subdivision plat for which a bond has been filed. Cul-de-sacs in the local street system shall not exceed 500 feet in length and shall be designed with a turnaround as described in § 139-69I.
- G. Flag lots. Notwithstanding the definition of "building line, front," the Planning Board may, in its discretion, approve a front building line which is a greater distance from the street line than the minimum front yard setback, but only

for lots fronting an internal local Town-owned streets in new major residential subdivisions.

- H. Block size. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included. New subdivided parcels shall generally not exceed ratio of 4:1 lot frontage to lot depth (e.g., generally not exceed a four to one rectangle in shape).
- I. Intersections with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.
- J. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be avoided. Therefore, opposing street intersections shall either be aligned or offset a distance of 125 feet measured from the center line of the intersection, except that streets intersecting arterial or collector roads shall comply with § 139-25.
- K. Angle of intersection. In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.
- L. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- M. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited-access highway

right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distance shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 139-69. Street design.

- A. Widths of rights-of-way. Streets shall have the following widths (the classification of streets shall be determined by the Board in consultation with the Town Highway Superintendent):

Residential Subdivision Street Design Standards						
Design Standards	Collector Arterial	Collector Rural	Collector Residential	Local	Marginal Access	Cul-de-Sac Diameter
Minimum right-of-way width (feet)	120	80	80	60	60	60/160
Minimum pavement width, excluding gutters (feet)	(2) at 26	24	30	24	24	24
Maximum grade	6%	6%	6%	10%	5%	8%
Minimum grade	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%
Minimum radius of curves at the center line (feet)	800	600	300	150	500	150
Minimum tangent between reverse curves (feet)	300	250	200	100	200	N/A

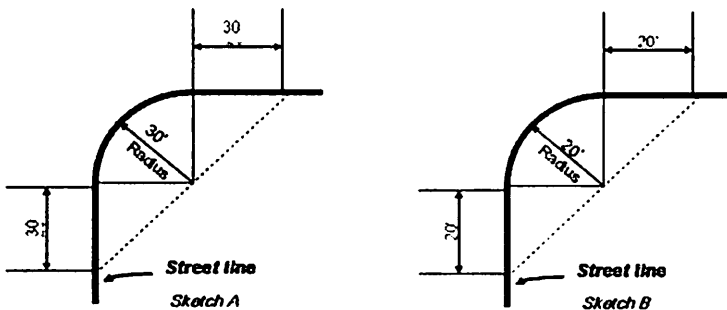
Residential Subdivision Street Design Standards						
Design Standards	Collector Arterial	Collector Rural	Collector Residential	Local	Marginal Access	Cul-de-Sac Diameter
Maximum grade within 100 feet of the center line of an intersection	1%	2%	2%	3%	3%	3%
Minimum stopping sight distance (feet)	400	200	200	150	200	100
Minimum distance between center line offsets as street jogs	500	250	250	200	200	200
Maximum length of cul-de-sacs (feet)	N/A	N/A	N/A	500	N/A	130
Minimum outside radius of cul-de-sac pavement (feet)						65
Angle at intersection of street lines	90°	90°	90°	80° to 100°	80° to 100°	80° to 100°
Maximum curb intersection radius (feet)	30	30	30	25	25	25

- B. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements and crossings shall be improved and encouraged as required by the Planning Board. Such grading and improvements shall be approved as to design and specifications by the Town Highway Superintendent.

- (1) Fire hydrants. Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York State Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
 - (2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the Town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and shall be in conformance with any applicable certification and/or inspection requirements.
- C. Utilities in streets. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- D. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- E. Grades. Grades of all streets shall conform in general to the terrain and shall not be less than 1/2% nor more than 6% for major or collector streets, or 10% for minor streets in residential zones, but in no case more than 3% within 50 feet of any intersection.
- F. Changes in grade. All changes in grade shall be connected by vertical curves of such length and radius as meet with

the approval of the Town Highway Superintendent so that clear visibility shall be provided for a safe distance.

- G. Curve radii at street intersections. All street right-of-way lines at intersections shall be rounded by curves of at least twenty-foot radius and curbs shall be adjusted accordingly.
- H. Steep grades and curves; visibility at intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded on Sketch A and Sketch B shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.



- I. Dead-end streets (cul-de-sacs). Where dead-end streets are designed to be so permanently, they should, in general, not exceed 500 feet in length and shall terminate in a circular turnaround having a minimum inside edge of pavement radius of 65 feet and a pavement width of a minimum of 1 1/2 times the width of the abutting road. At the end of temporary dead-end streets, a temporary turnaround with a pavement radius of 50 feet shall be provided, unless the

Planning Board approves an alternate arrangement. The width of right-of-way of all cul-de-sacs shall be a minimum of 162 feet in diameter.

J. Watercourses.

- (1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Highway Superintendent and in no case less than 20 feet in width.

K. Curve radii. In general, street lines within a block deflecting from each other at any one point by more than 10° shall be connected with a curve, the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets, and 100 feet on minor streets.

L. Service streets or loading space in commercial development. Paved rear service streets of not less than 20 feet in width, or in lieu thereof adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use and shall be separate from general vehicular circulation to the greatest extent possible.

M. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as is deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or

parking vehicles and to provide adequate and safe parking space for such commercial or business district.

§ 139-70. Street names.

- A. Type of name. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board.
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change in street name.

§ 139-71. Lots.

- A. Lots to be buildable. The lot arrangements shall be such that in constructing a building in compliance with the Zoning Ordinance, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear and should generally not exceed a 4:1 ratio of lot width to lot depth.
- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be 150% larger than interior lots and have equal setbacks along both road lines to provide for proper building setback from each street and provide a desirable building site. Front yard setbacks shall conform to the major highway overlay

controls as set forth in Article X, § 139-25, of the Zoning Ordinance.

- D. Driveway access. Driveway access and grades shall be a minimum of 250 feet from the center line of intersections with arterial and collector roads and shall conform to specifications of the Town Driveway Ordinance, if one exists. Driveway access locations shall conform to the major highway overlay controls as set forth in § 139-25 of the Zoning Ordinance. Driveway grades between the street and the setback line shall not exceed 10% and shall follow the crown line of the road and the shoulder and be constructed so that water coming down the driveway will exit into the roadside ditch before it reaches the shoulder of the road.
- E. Access from private streets. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations. Private streets shall not exceed 600 linear feet without proper access and turnaround provisions for fire-fighting and life safety equipment.
- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Highway Superintendent as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent may require, and their location shall be shown on the subdivision plat.

§ 139-72. Drainage improvements.

- A. Grading and drainage. Street layout, block grading and lot grading data shall be shown. The objective is to establish the street grades, floor elevations and lot grades in proper relation to each other and to existing topography, considering property protection, aesthetic appeal, use and drainage.

B. Storm and surface drainage.

- (1) All subdivisions shall be required to submit a stormwater management plan. This plan shall, at a minimum:
 - (a) Use the twenty-five-year storm event as the basis for design of all stormwater facilities.
 - (b) Include specific erosion and sedimentation plans.
- (2) The following shall be used to evaluate each stormwater management plan: The peak rate of discharge for the site in question, calculated in its developed condition, shall be equal to or less than the peak rate of discharge for the site in its predeveloped (existing) condition.
- (3) Any additional submission or design requirements for the installation of stormwater management facilities shall be determined by the Planning Board based on the review and recommendation of the Town Highway Superintendent. The Planning Board may consult with any other agencies or professionals, including but not limited to the Oneida County Soil and Water Conservation District, in making this determination.
- (4) Where an adequate public storm sewer main is available at the plat boundary, the subdivider shall construct a storm sewer system to be connected with the storm sewer main. If such storm sewer system is not accessible, adequate stormwater drainage shall be provided by natural drainage channels with easements of adequate width, except that in the street right-of-way no open ditches shall be permitted which in the judgment of the Planning Board would present a hazard to pedestrian or vehicular travel or a nuisance due to unsightliness. The Planning Board may also require any hazardous

or unsightly natural drainage ditch to be suitably screened or fenced.

- C. Culverts and bridges. When natural drainage channels intersect any street right-of-way, it shall be the responsibility of the subdivider to have satisfactory bridges and culverts designed and constructed. Where culverts are required, the following minimum requirements shall be observed:
- (1) All culverts shall extend across the entire roadway, including the shoulders, and the capacity shall be approved by the Town Highway Superintendent.
 - (2) Driveway culverts for residential driveways shall be a minimum of 12 inches in diameter and 20 feet in length. Residential driveway culverts shall be no longer than 24 feet in length. Driveway culverts for nonresidential driveways shall extend at least four feet beyond the driveway on each side. The diameter of driveway culverts shall be subject to the determination of the Town Highway Superintendent. The driveway culverts shall be laid so as to maintain the flow line of the ditch or gutter. Headwalls may be required if volume and grade indicate the need.
 - (3) In any case, such facilities shall be designed to handle the anticipated increase in runoff which will occur when property at a higher elevation in the same drainage basin is fully developed.
- D. Streets and slopes. A street shall be designed so as to provide for the discharge of surface water from its pavement surface. The slope of the crown on a street shall not be less than 1/8 of an inch per foot and not more than 1/3 of an inch per foot. Adequate drainage facilities shall be provided at such points along a street and at other points as necessary to intercept runoff.
- E. Abutting properties. In the design of storm drainage facilities, special consideration must be given to preventing

excess runoff into adjacent developed or undeveloped properties. When a storm drainage outlet will abut another property, the subdivider shall secure approval in writing of the adjoining affected owners.

- F. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

§ 139-73. Parks, open spaces and other natural features.

- A. Recreation areas shown on Town Plan. Where a proposed park, playground or open space shown on the Town Plan is located in whole or in part in a subdivision, the Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Subsection B below. Such area or areas may be dedicated to the Town or county by the subdivider if the Town Board approves such dedication.
- B. Parks and playgrounds not shown on Town Plan.
- (1) The Planning Board shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat.
 - (2) The Board shall require that not less than three acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount be more than 10% of the total area of the subdivision. Such area or areas may be

dedicated to the Town by the subdivider if the Town Board approves such dedication. Appropriate legal measures should be taken to assure that such land can never be developed for other than recreational purposes.

- C. Information to be submitted. In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit, prior to final approval, to the Board three prints (one copy in ink on linen or an acceptable equal), at a scale of not less than 30 feet to the inch, showing such area and the following features thereof:
- (1) The boundaries of the area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
 - (2) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
 - (3) Existing and, if applicable, proposed changes in grade and contours of the area and of the area immediately adjacent.
- D. Waiver of plat designation of area for parks and playgrounds.
- (1) In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or if in the opinion of the Board is not desirable, the Board may waive the requirement that the plat show land for such purposes. The Board shall then require as a condition to approval of the plat a payment to the Town of \$350 per gross acre of land which otherwise would have been acceptable as a recreation site. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Subsection B hereof.

- (2) Such amount shall be paid to the Town Board at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund, to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes and is so located that it will serve primarily the general neighborhood in which the land covered by the plat lies, and shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Board finds there is a need for such improvements.
- E. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.
- F. Preservation of natural features. The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, historic structures or locations, vistas and similar irreplaceable assets.
- (1) Topsoil removed during the course of construction shall be stockpiled and replaced so as to cover all areas of the subdivision and shall be stabilized by seeding and plantings. Topsoil stockpiles shall be graded and protected (seeded, mulched or other appropriate techniques) so as to prevent soil loss through erosion and to avoid sedimentation of watercourses.

- (2) To the extent possible, economically viable farmland shall be avoided or allowed to continue in a manner that preserves the economic viability and maximizes tillable acreage of land available for active agricultural use both within and surrounding the land to be subdivided.
- (3) Wherever possible, existing trees and shrubbery shall be conserved by the subdivider. Care should be exercised in construction so that damage to existing trees and shrubs is avoided. The Planning Board may visit the site with the developer to discuss optimum siting of streets and lots so as to preserve the existing quality of the site.
- (4) Streams, lakes, ponds and wetlands within a subdivision shall generally be left unaltered. Easements along watercourses as a part of a comprehensive recreational and open space plan for the development will be viewed favorably the Planning Board.
- (5) Unique physical, historical and cultural sites shall be incorporated into the subdivision in their present state or improved by the design.
- (6) All surfaces must be graded and restored within six months of the time of completion of the subdivision so that no unnatural mounds or depressions remain.

G. Special flood hazard areas.

- (1) Any special flood hazard area or conservation overlays must be so marked on the preliminary plat.
- (2) Land in such areas shall not be used for building or other habitable structures, except as permitted by Chapter 68, Flood Damage Prevention.

H. Freshwater wetlands.

- (1) Any freshwater wetlands, including wetlands regulated by the New York State Department of Environmental Conservation or indicated on the National Wetlands Inventory (NWI) maps, must be so marked on the preliminary plat.
- (2) All development in areas identified as freshwater wetlands shall be permitted only upon submission of a joint application and issuance of a permit by the New York State Department of Environmental Conservation pursuant to the provisions of Article 24 of the New York State Environmental Conservation Law.

ARTICLE XIX

Documents to be Submitted

§ 139-74. Sketch plan.

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted showing the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 100 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.

- D. The Tax Map sheet, block and lot numbers, if available, including the names, address and Tax Map numbers (map, block, lot and parcel) of all parcels within 500 feet of the subdivision that lie within a current agricultural taxing district.
- E. All the utilities available and all streets which are either proposed, mapped or built.
- F. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
- G. All existing restrictions on the use of land, including easements, covenants, or zoning lines.

§ 139-75. Preliminary plat and accompanying data.

The following documents shall be submitted for preliminary plat approval:

- A. Five copies of the preliminary plat prepared at a scale of not more than 100 feet but preferably not less than 50 feet to the inch, showing:
 - (1) Proposed subdivision name; name of town and county in which it is located; date; true North point; scale; name and address of record owner, subdivider and engineer or surveyor, including license number and seal of any and all.
 - (2) The name of all subdivisions immediately adjacent and the names of the owners of record of all adjacent property.
 - (3) Zoning district, including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the Zoning Ordinance text applicable to the area to be subdivided.

- (4) All parcels of land proposed be dedicated to public use and the conditions of such dedication.
- (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
- (6) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (7) Contours at intervals of five feet or less as required by the Board, including elevations on existing roads, and approximate grading plan if natural contours are to be changed more than two feet.
- (8) The width and location of any existing streets or public ways or places within or adjacent to the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- (9) The approximate location and size of all proposed water lines, valves, hydrants, sewer lines and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; and profiles of all proposed water and sewer lines.
- (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles, and connection to existing lines or alternate means of disposal.
- (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary

sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and subbase; the location of manholes, basins and underground conduits.

- (12) Preliminary designs of any bridges or culverts which may be required.
 - (13) The proposed lot lines with approximate dimensions and area of each lot.
 - (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.
 - (15) All parcels within a current agricultural taxing district that lie within 500 feet of the subdivision shall be indicated on the plans and an agricultural data statement will be submitted to the Planning Board for distribution by the Town Clerk.
 - (16) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Highway Superintendent and shall be referenced and shown on the plat.
- B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area with its proposed streets and an indication of the probable future street system with its

grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract, shall be submitted. The part of the subdivider's entire holding submitted shall be considered in light of the entire holding.

- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- D. At the discretion of the Planning Board, the applicant shall be responsible for providing all information necessary to make informed decisions regarding the environmental impacts of the proposed subdivision upon the natural, cultural and agricultural resources of the Town. Therefore, all information necessary for the Planning Board to make a determination of significance (e.g., positive declaration, negative declaration or conditioned negative declaration) under the New York state Environmental Quality Review Act (SEQRA) must be submitted prior to approval of a preliminary plat.

§ 139-76. Final subdivision plat and accompanying data.

The following documents shall be submitted for final subdivision plat approval:

- A. The plat to be filed with the County Clerk shall be printed upon linen or other material acceptable to the County Clerk. The size of the sheets must be a minimum of 8 1/2 inches by 11 inches or a maximum of 34 inches by 44 inches, including a margin for binding of two inches outside of the border along the left side and a margin of one inch outside of the border along the remaining sides. The plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. A duplicate copy of such plat shall be filed in the office of the Town of Vernon Clerk and the

office of the Oneida County Division of Real Property/Tax Service. The plat shall show:

- (1) Proposed subdivision name or identifying title and the name of the town and county in which the subdivision is located; the name and address of the record owner and subdivider; the name, license number and seal of the licensed land surveyor.
- (2) Street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.
- (3) Sufficient data to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.
- (4) The length and bearing of all straight lines, the radii and length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
- (5) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
- (6) All offers of cession and covenants governing the maintenance of uncaded open space shall bear the

certificate of the Town Attorney as to their legal sufficiency.

- (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
- (8) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Town Highway Superintendent. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Highway Superintendent and their location noted and referenced upon the plat.
- (9) All lot corner markers shall be permanently located satisfactorily to the Town Highway Superintendent, at least 3/4 inch (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.
- (10) Monuments of a type approved by the Town Highway Superintendent shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Highway Superintendent.

B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

ARTICLE XX**Waivers****§ 139-77. Waiver of provisions; conditions.**

- A. Where the Planning Board finds that due to the special circumstances of a particular plat, the provision of certain standards, fees or requirements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such standards, fees or requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Zoning Ordinance.
- B. In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards, fees or requirements so waived.

Part 7**Site Plan Review****ARTICLE XXI****Site Plan Review for Commercial, Industrial, Institutional and Multifamily Residential Uses****§ 139-78. Purpose and intent.**

- A. The Town of Vernon, New York incorporates this site plan review process as a tool for the Planning Board to review commercial, industrial, institutional and multifamily residential uses in all zoning districts. For the purposes of this Part 7, "multifamily residential" shall mean a building containing three or more attached dwelling units. The intent of this Part 7 is to allow for the Town Planning Board to have power of discretion in reviewing commercial,

industrial, institutional and multifamily residential site plans pertaining to project design and landscaping requirements.

- B. As an integral component of site plan review, the Town Board of Vernon has determined that poor quality of design and poor location of buildings and structures (including signs and accessory buildings) adversely affect the desirability of the immediate neighborhood and impair the benefits, stability and value of improved and unimproved property in such areas.
- C. Therefore, it is the intent of this Part 7 to grant to the Planning Board the review discretion necessary to avoid such conditions and to ensure that the location and design of buildings, structures and open spaces in the Town aid in creating a balanced and harmonious composition of the whole as well as the relationship of its parts. As such, all applications requiring site plan review will be subject to a general architectural review and will be evaluated with respect to the context of, and compatibility with, their surrounding environs.

§ 139-79. Additional duties of Planning Board for architectural review.

- A. The Town of Vernon Planning Board, appointed by the Town Board, is duly authorized to perform general architectural reviews as an integral component of the Town's site plan review procedure under the provisions of this Part 7.
- B. The Planning Board is charged with the duty of maintaining the desirable character of the Town and of disapproving the construction, reconstruction and alteration of buildings subject to site plan review that are designed without consideration of the harmonious relation of the new or altered building to such buildings as already exist and the environs in which they are set.

- C. The Planning Board is charged with the duty of exercising sound judgment and of rejecting plans which, in its opinion, based upon study and advice of the Town Engineer, Town Attorney or an architectural/historic preservation consultant, are not of harmonious character because of proposed style, materials, mass, line, detail or placement upon the property or in relation to the spaces between buildings or the natural character of the landscape or because the plans do not provide for the location and design of structures and open spaces so as to create a balanced and harmonious composition as a whole and in relation to its several parts and features to each other.

§ 139-80. Review process steps.

The site plan review process has three primary steps as follows:

- A. Concept review - sketch plan.
- B. Preliminary site plan review.
- C. Final site plan review and approval.

§ 139-81. Procedure for preliminary site plan review and action.

- A. General provisions.

- (1) Prior to the issuance of a building permit for any site plan review uses, the Town Board shall refer the application and all application materials as specified herein to the Planning Board for its review and approval in accordance with the provisions set forth in this Part 7. In cases where land use and/or area density is at issue, or where specific cases of hardship or improper classification are evident, the Planning Board shall notify the Town Board and shall refer the application to the Zoning Board of Appeals for an opinion and recommendation prior to

granting preliminary site plan approval. If an application for a variance of land use or area is made to the Zoning Board of Appeals prior to the application for site plan review, the Zoning Board of Appeals shall notify the Town Board and the Planning Board of the action and opinion prior to the granting of preliminary site plan approval.

- (2) Within 62 days of the receipt of a preliminary site plan and all information necessary to constitute a fully complete application, the Planning Board shall inform the applicant, in writing, of its decision. An application shall be considered complete when the applicant has submitted all information necessary to make a determination of significance under the New York State Environmental Quality Review Act.
- (3) If the Planning Board determines that the site plan or building style does not meet the standards of the Town, the applicant may request an extension of the sixty-two-day period.

B. Concept review. A meeting shall be held between the Planning Board and applicant to review the basic site and architectural design concept and generally determine the information to be required on the preliminary site plan. The applicant should provide the data discussed below in addition to a statement or rough sketch describing the proposal. The Planning Board shall issue written comments as the result of this meeting. The applicant shall provide the following information:

- (1) An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets and easements within 500 feet of the boundaries thereof.
- (2) A map of site topography at no more than five-foot contour intervals. If general site grades exceed 5% or portions of the site have bedrock outcrop or the susceptibility to erosion, flooding or ponding, a soils

overlay and a topographic map showing contour intervals of not more than two feet of elevation should also be provided.

- (3) The owner, the architect, or other agent of the owner shall submit preliminary plans, elevations, sketches and/or proposals to the Planning Board for consultation concerning preferred architectural aesthetics prior to filing an application for a building permit or an application for site plan review.

C. Application for preliminary site plan approval.

(1) Fees and costs.

- (a) An administrative fee of \$50 shall accompany an application for preliminary site plan review and approval. No further fee is required at the final site plan stage.

- (b) The applicant shall pay anticipated costs that the Planning Board expects to incur due to consulting services or other review costs, and a minimum amount of \$1,000 shall be placed in an escrow account. Any unspent funds shall be returned to the applicant within five days of Planning Board action on the final site plan. If the Town's costs to review the project exceed the amount placed in the escrow account, the developer will be asked to pay those costs to the Town prior to issuance of any permits for project development. The costs will be based upon an explanation for the additional review requirements and will be entered in the public record.

- (2) An application for architectural review and preliminary site plan approval shall be made in writing to the Zoning Officer and shall be accompanied by information drawn from the

following checklist, as determined necessary by the Planning Board at the Concept Review meeting.

(3) Preliminary site plan submission requirements:

- (a) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- (b) North arrow, scale and date;
- (c) Boundaries of the property plotted to scale;
- (d) Name and address of all adjoining property owners;
- (e) Existing watercourses and drainageways;
- (f) Grading and drainage plan, showing existing and proposed contours;
- (g) Location, proposed use and height of all buildings;
- (h) Location, design and construction materials of all parking and truck loading areas, showing access and egress;
- (i) Provision for pedestrian circulation access and handicapped access;
- (j) Location of outdoor storage, and method of screening if any;
- (k) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, fences, and signs;
- (l) Location, design and general construction materials of all existing or proposed buildings, structures and accessory structures, including elevations of the building(s) illustrating all

views fronting public streets, and/or three-dimensional renderings necessary to illustrate the size, shape and form of all sides of the building(s);

- (m) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- (n) Description of the method of securing public water and location, design and construction materials of such facilities;
- (o) Location of fire and other emergency zones, including the location of fire hydrants and fire lanes;
- (p) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- (q) Location, size and design and construction materials of all proposed signs;
- (r) Location and proposed development of all buffer areas, including existing vegetative cover;
- (s) Location and design of outdoor lighting facilities and light emissions to 25 feet within adjoining property;
- (t) Designation of the amount of building area proposed for retail sales or similar commercial activity;
- (u) General landscaping plan and planting schedule;
- (v) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any

state or county permits required for the project's execution;

- (w) Agricultural data statement if located within 500 feet of an agricultural district (forms can be obtained at the Oneida County Planning Department or from the Town Clerk);
- (x) Archeological survey as required by the New York State Historic Preservation Office (SHPO), if any; and
- (y) Completed environmental assessment form (EAF) in compliance with the New York State Environmental Quality Review Act (SEQR).

D. Review criteria. The following criteria for the Planning Board review may include, but shall not be limited to, the following:

- (1) Adequacy and arrangement of vehicular traffic egress/ingress and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (2) Adequacy, arrangement of pedestrian, ADA-compliant traffic access, and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size, design, architectural style and general site compatibility of buildings, lighting and signs.
- (5) Relationship of proposed architectural styles and materials within the context of the community, surrounding neighborhood or compatibility with adjacent environs.

- (6) Adequacy of stormwater and drainage facilities.
 - (7) Adequacy of water supply for drinking and fire protection purposes and sewage disposal facilities.
 - (8) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - (9) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 - (10) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (11) Adequacy of fire lanes, other emergency zones, and the provision of fire hydrants.
 - (12) Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (13) Relationship to active agricultural land and fallow land to ensure that the conversion of agricultural land to nonagricultural uses is minimized and to ensure that all potential conflicts with agricultural operations are minimized.
- E. Consultant review. The Planning Board may consult with the Town Engineer, an engineer appointed by the Town Board, Town Building Inspector, Fire Commissioners, Conservation Council, Commissioner of Public Works, other local and county officials, and its designated private consultant, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

- F. **Public hearing.** The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within 62 days of the receipt of the complete application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town at least five days before the public hearing.

§ 139-82. Planning Board action on preliminary site plan.

- A. The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQR). First, the Planning Board should identify the type of action the proposed development is according to the SEQR. Depending on the size, location, and other factors, it may be a Type I or an unlisted action. To make a decision, the Planning Board should consult Part 617 of Article 8 of the Environmental Conservation Law (New York). The Planning Board should also review the environmental assessment form (EAF) submitted as part of the application and consider compliance with current planning activities and plans. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.
- B. If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. The application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed and submitted to the Planning Board. When the draft environmental impact statement is completed, the period for Planning Board review begins (62 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

- C. When compliance with SEQR is complete, the Planning Board shall act on the application within 62 days. If no decision is made within said sixty-two-day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is approved, disapproved or approved with modifications. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement 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.

§ 139-83. Procedure for final site plan review and action.

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six months have elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- B. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review, including consensus regarding recommended architectural style. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

- C. The following additional information shall accompany an application for final site plan approval:
- (1) Record of application for and status of all necessary permits from state and county officials;
 - (2) Detailed sizing and final material specification of all required improvements; and
 - (3) An estimated project construction schedule.
- D. Required referral. Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report in accordance with § 239 of the General Municipal Law, where the proposed action is within a distance of 500 feet from the boundary of a farm operation located in an agricultural district, any city, village, or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.
- E. Planning Board action on final detailed site plan. No final site plan approval shall be granted on any application that has been referred to the Planning Board unless the Planning Board has recommended approval of the architectural style, the plans have been amended to incorporate any conditions of approval imposed by the Planning Board or the Planning Board approves the site plan by a vote of a majority plus one of its members.
- (1) Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a decision to Town Board. If no decision is made within the sixty-two-day period, the final site plan

shall be considered approved. Conditional approval shall not be granted based on engineering issues necessary to accomplish site development.

- (2) No conditional approvals will be granted for any engineering issue requiring further review by the Town Engineer or reviewing engineer appointed by the Vernon Town Board.

§ 139-84. Applicability of site plan review process.

The site plan review process shall apply to all uses, whether designated "permitted" or otherwise, in those portions of all zoning districts located within the Town except the following: one-family dwelling, two-family dwelling, farm. Such uses shall be termed "site plan review uses."

§ 139-85. When effective.

This Part 7 shall take effect 10 days after publication pursuant to § 133 of the Town Law.

**Part 8
Administrative Provisions**

**ARTICLE XXII
Administration and Enforcement**

§ 139-86. Enforcement officer.

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

provisions of this chapter or as directed by the Board of Appeals under the provisions of Article XXIII.

§ 139-87. Zoning permits.

- A. No building shall be erected or altered and no change in the primary use of a property initiated and no clearing, grading or excavation for any building or use shall begin unless and until a zoning permit for such work has been issued by the Enforcement Officer in compliance with this chapter and the New York State Uniform Fire Prevention and Building Code, as amended.
- B. Applications for zoning permits shall be submitted in triplicate on a form or forms provided by the Enforcement Officer. Each zoning permit application shall set forth all the information necessary to determine compliance with the provisions of this chapter and the New York State Uniform Fire Prevention and Building Code, as amended. The Enforcement Officer may require such additional information, other than that called for on the application form, as may reasonably be needed to determine if the proposed action is in conformity with the provisions of this chapter and the State Uniform Fire Prevention and Building Code.
- C. The ZEO shall have the right to inspect all two-family and multifamily residential rental units in the Town of Vernon annually. In the event that an interim inspection is deemed necessary, the ZEO may request an inspection upon advance notification to the property owner of five business days.

§ 139-88. Certificates of occupancy.

- A. A certificate of occupancy is required for any of the following:

- (1) Occupancy and use of a building hereafter erected, altered, moved or extended.
- (2) Change in the use of an existing building.
- (3) Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.
- (4) Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use.

B. A certificate of occupancy may be obtained on application from the Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within a reasonable period of time from the date of application.

§ 139-89. Penalties for offenses.

A. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to

misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate, additional violation.

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

ARTICLE XXIII Board of Appeals

§ 139-90. Establishment and membership.

A Board of Appeals is hereby established. It shall consist of five members. 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 the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.

§ 139-91. Statutory authority.

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

§ 139-92. Meetings.

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board 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.

§ 139-93. Records.

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Enforcement Officer. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and Town Clerk and shall be a public record. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of § 139-96 where the appeal is for a variance or a special permit.

§ 139-94. Appeals.

- A. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under this chapter. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person

aggrieved or by any officer, department, board, or bureau of the Town.

- B. Such appeal shall be taken within 30 days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Enforcement Officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Enforcement Officer shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

§ 139-95. Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of acts stated in the certificate a stay would in his 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 officer from whom the appeal is taken and on due cause shown.

§ 139-96. Powers and duties; criteria for decisions.

The Board of Appeals shall have the following powers and duties prescribed by statute and by this chapter:

- A. Interpretation. On appeal from a determination of the Enforcement Officer, to hear and decide on questions where it is alleged there is an error in any order, requirements, decision, or determination made by the Enforcement Officer involving the interpretation of any provision of this chapter.
- B. Variances. On an appeal from a determination of the Zoning Enforcement Officer and in conformity with law, to

vary the requirements as they apply to a particular lot where the property owner can show that his property was acquired in good faith and where the strict application of this chapter would result in practical difficulty (area variance) or unnecessary hardship (use variance). No application for a variance shall be acted on until the required public hearing has been held. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case as specified below:

- (1) Area variance. This is a variance involving dimensional deviations from the standards set forth in this chapter. Because of exceptional narrowness, shallowness, shape or area of the specific parcel or because of extraordinary topographic conditions or other physical conditions or location of the specific parcel, the strict application of the provisions of this chapter actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, and the granting of the variance is necessary for the reasonable use of such property and the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property. Practical difficulty is the test for an area variance. The Board shall address each of the following criteria in making a determination for an area variance:
 - (a) How substantial the variance is in relation to the zoning requirement.
 - (b) The effect of the increased population density or land use intensity on available government facilities. This could include fire and police protection, schools and utilities.
 - (c) Whether a substantial change will be produced in the character of the neighborhood, or

whether a substantial detriment to adjoining properties will be created.

- (d) Whether the difficulty can be eliminated by some method other than a variance which is feasible for the applicant to pursue. In the case of side yard variances in particular, it is frequently feasible, proper, and possible for the applicant to alter the plot plan to locate a proposed structure or addition in a new location which does not require any variance.
 - (e) Whether, in view of the manner in which the difficulty arose and in consideration of the above factors, the interests of justice will be served by allowing the variance.
- (2) Use variance. This is a variance which permits a use of land which is prohibited by this chapter. The granting of a use variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner, which conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter. Unnecessary hardship is the test for a use variance. The Board shall address each of the following criteria in making a determination for a use variance:
- (a) The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
 - (b) The use to be authorized by the variance will not alter the essential character of the locality.
 - (c) The use to be authorized by the variance is granted in accordance with the Town Law of

New York State § 267-b(2) and any future amendments thereto.

- (3) In any case, the granting of the variance will be in harmony with the intent, spirit and purpose of this chapter and will not otherwise be injurious to the neighborhood.

C. Special permit uses.

- (1) On application, supplementing an application to the Enforcement Officer for a zoning permit or certificate of occupancy, the Board of Appeals may grant a permit for any use for which approval of the Board is required under this chapter. In granting such permit, the Board may specify appropriate conditions in harmony with the following standards:
 - (a) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.
 - (b) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections and the general character and intensity of development of the neighborhood.

- (c) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and/or buildings or impair the value thereof.
- (2) The Board of Appeals shall conduct a public hearing to consider issuance of any special permit and, in addition, to publishing a notice of the hearing in the Town newspaper at least 10 days prior to the hearing, the Board of Appeals shall, in addition, mail written notice of such public hearing by regular mail to all owners of property contiguous to the parcel where the proposed special use is to be conducted using the current address and property ownership information for contiguous parcels as reflected in the Town Assessor's records, and such regular mail notice is to be mailed at least 10 days prior to the hearing.

§ 139-97. Hearing and determination.

The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and by publication at least once in the official newspaper seven days before the date of the hearing and shall decide the same within a reasonable time. The petitioner and/or his duly authorized representative shall be present for the hearing. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

ARTICLE XXIV
Amendments

§ 139-98. Initiation.

- A. The Town Board may from time to time, on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter.
- B. Whenever the owners of 50% or more of the frontage in any district or part thereof shall present a petition, duly signed and acknowledged, to the Town Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within 30 days after the filing of the same by the petitioners with the Town Clerk.
- C. The Planning Board may, by resolution, propose an amendment to the Town Board, suggesting a change or repeal of the regulations. Within 60 days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Town Board to vote on such proposed amendment.

§ 139-99. Referral to Town Planning Board and County Department of Planning.

- A. All proposed amendments, supplements, or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendations thereon. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.
- B. Whenever any zoning regulation or any amendment, including special permits or variances, would change the district classification of or a regulation applying to real

property within a distance of 500 feet from any boundary line of properties in a neighboring municipality or upon other county or state property as described in §§ 239-l and 239-m of the General Municipal Law, said zoning regulation or amendment shall be referred by the Town Board to the Oneida County Department of Planning, which Department shall have 30 days in which to report its recommendations to the Town Board. Failure of the County Department of Planning to report within 30 days may be construed to be approval by the Department.

§ 139-100. Public hearings.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing may be held by the Town Board, by a committee of the Board or by the Planning Board on request of the Town Board.

§ 139-101. Adoption.

After the public hearing and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend this chapter except as described in § 139-102.

§ 139-102. Protest petitions.

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of 3/4 of the Town Board.

**Part 9
Supplementary Regulations**

**ARTICLE XXV
Mobile Homes**

§ 139-103. Temporary mobile homes.

Location of an individual mobile home may be permitted in the A Agricultural District upon authorization of a permit by the Board of Appeals when the Board determines that one of the following criteria has been met:

A. Temporary mobile home: family member.

- (1) The location of the mobile home is temporary and shall exist only for the purpose of serving as a dwelling unit for a person or persons of the immediate family occupying a permanent residence on the same parcel. For the purpose of this article, "immediate family" is limited to mother, father, brother, sister, son, daughter, mother-in-law, father-in-law or grandparent(s). The Board of Appeals, in considering an application for such a temporary mobile home permit, shall determine that:
 - (a) The applicant is a member of the immediate family of the person or persons occupying a permanent residence on the same parcel.
 - (b) No other viable housing alternatives exist for the person or persons who would occupy the mobile home (criteria to be considered include income, illness or disability, etc.).
 - (c) The area requirements, including front, side and rear yard setbacks, shall be adequate.
 - (d) Adequate drinking water and sanitary facilities are provided in accordance with the Oneida

County Sanitary Code and any amendments thereof.

- (e) A temporary mobile home shall be located within 100 feet of the principal dwelling on a six-inch reinforced concrete pad and septic system approved by a licensed professional engineer or architect.
- (2) If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a two-year temporary permit. Said temporary permit may be renewed for additional two-year periods upon a determination by the Enforcement Officer that the applicant is complying with all conditions under which the permit was originally issued.
- (3) No permanent addition, other than an enclosed entryway or storage building, shall be permitted for a temporary mobile home for a family member.
- (4) Within 30 days of such time as the mobile home is no longer used for the immediate family member for whom the original temporary permit was granted, the owner of the parcel on which the mobile home is located shall notify the Enforcement Officer that such condition exists.
- (5) Within a reasonable time period, not to exceed 60 days (unless an additional sixty-day extension is granted by the CEO/ZEO) from when the temporary mobile home is no longer used for the purpose for which the permit was granted, the owner of the parcel on which the mobile home is located shall remove or cause to be removed the temporary mobile home from the parcel.

B. Temporary mobile home: farm-related.

- (1) The location of the mobile home is temporary and in conjunction with an operating farm and shall exist

only for the purpose of serving as a dwelling unit for a person or persons principally employed in the operation of the farm. The Board of Appeals, in considering an application for such farm-related mobile home, shall determine that:

- (a) The occupant of the mobile home is principally employed in the operation of the farm.
 - (b) There shall be no transfer of land on which to place such mobile home. The ownership of the land on which the mobile home is to be placed shall be maintained by the owner of the farm unit.
 - (c) The area requirements, including front, side and rear yard setbacks, shall be no less than that required for the principal structure.
 - (d) Adequate drinking water and sanitary facilities are provided in accordance with the Oneida County Sanitary Code and any amendments thereof.
 - (e) A temporary mobile home shall be located within 100 feet of the principal dwelling on a six-inch reinforced concrete pad and septic system approved by a licensed professional engineer or architect.
- (2) If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a one-year temporary permit.
 - (3) No permanent addition, other than an enclosed entryway or storage building, shall be permitted for a farm-related mobile home.
 - (4) Within 30 days of such time as the mobile home is no longer used as a dwelling unit for a person or persons principally employed in the operation of the farm on which the mobile home is located, the owner

of the farm shall notify the Enforcement Officer that such condition exists.

- (5) Within a reasonable time period, not to exceed 60 days (unless an additional sixty-day extension is granted by the CEO/ZEO) from when the farm-related mobile home is no longer used for the purpose for which the permit was granted, the owner of the farm on which the mobile home is located shall remove or cause to be removed the mobile home from the parcel.

C. Temporary mobile home: new construction/reconstruction.

- (1) The location of the mobile home is temporary and shall exist only for the purpose of serving as a dwelling unit during the construction or reconstruction of a permanent dwelling unit. The Board of Appeals, in considering an application for such a temporary mobile home permit, shall determine that:
 - (a) An application for a building/use permit for a permanent residence has been applied for and granted to the applicant who is requesting the temporary mobile home permit, and the foundation of the permanent home has been approved.
 - (b) The area requirements, including front, side and rear yard setbacks, shall be adequate.
 - (c) Adequate drinking water and sanitary facilities are provided in accordance with the Town of Vernon Sanitary Code and any amendments thereof.
- (2) If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a one-year temporary permit. Said temporary permit may be

renewed for not more than four additional one-year periods upon due cause shown by the applicant.

- (3) No permanent addition, other than an enclosed entry or storage building, shall be permitted for a temporary mobile home.
- (4) Within 30 days of such time as a certificate of occupancy is issued for the permanent dwelling or the expiration of the temporary mobile home permit or any extension thereof, whichever shall occur first, the owner of the parcel on which the mobile home is located shall remove or cause to be removed the temporary mobile home from the parcel.

§ 139-104. Mobile home parks.

- A. A mobile home park shall be located and maintained only in those districts as permitted in this chapter and in accord with the standards herein set forth.
- B. Any proposal for a mobile home park shall be required to comply with Article XXI and § 139-105.
- C. Any proposal for a mobile home park shall be required to comply with Part 7 of the New York State Sanitary Code, together with any revisions thereof.
- D. All mobile home parks shall obtain an annual operating permit from the Enforcement Officer. All operating permits shall be effective until December 31 of the calendar year of their issuance. An application for a renewable operating permit shall be made to the Enforcement Officer 60 days prior to the expiration date of the previous permit. The Enforcement Officer shall issue or deny such permit in accord with the requirements set forth in this chapter and the established fee schedule.
- E. All existing mobile home parks of record shall comply with these regulations, including the obtaining of an annual operating permit, except that as long as no addition,

expansion or alteration of the use or operation is proposed, they shall not be subject to Subsection B of this section. If, however, any addition, expansion or alteration of the existing mobile home park of record is proposed, said addition, expansion or alteration shall be subject to all provisions of this chapter, including Subsection B of this section and the area requirements of Part 2 of this chapter. All existing mobile home parks shall be limited to the number and size of mobile homes presently accommodated at the time of adoption of this chapter, except as they shall meet the minimum requirements set forth herein. In addition, existing parks shall comply in every regard with all applicable building codes and minimum standards for health, sanitation and cleanliness.

§ 139-105. General standards.

In addition to any requirements found elsewhere in this chapter, all mobile homes, including double-wide mobile homes, in the Town of Vernon, whether existing, temporary or in a mobile home park, shall be subject to the following conditions:

- A. The mobile home shall be provided with an approved skirting.
- B. The mobile home stand shall provide a six-inch reinforced concrete slab and septic system approved by a licensed professional engineer or architect and approved mobile home tie-downs of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure.
- C. All mobile homes shall conform to the requirements of Part 1220 et seq. of the New York State Uniform Fire Prevention and Building Code. The New York State Uniform Fire Prevention and Building Code requirement shall apply to existing mobile homes only to the extent that said code mandates retroactive application.

- D. The Town of Vernon has the right to inspect all mobile home units that are used for rental purposes or occupied by renting tenants.

**ARTICLE XXVI
Regulations for Specific Uses**

§ 139-106. Mining or extraction.

In any but a manufacturing or agricultural district, the removal of sod, loam, sand, gravel or quarried stone for sale, except when incidental to or in connection with the construction of a building, shall be permitted only on approval of the Town Board.

§ 139-107. Refuse disposal.

No land in any area shall be used for the commercial disposal of garbage or rubbish by landfill or other method without the written prior approval of the Town Board. No private or residential area shall be used for garbage or rubbish disposal. Disposal of garbage or rubbish must not violate any state health codes or statutes or any Town ordinance or local law.

§ 139-108. Signs.

- A. In residential and agricultural districts, there shall be permitted a bulletin board or sign in connection with permitted uses in these districts and referring only to the use of the premises or activities carried on within the confines of the premises. Also permitted shall be one sign advertising the sale or rental of the property on which it is located.
- B. No sign in any residential or agricultural district shall exceed 12 square feet (six square feet in area for home occupations) in area or be located closer to a road than 1/2 of the required front yard distance. All signs shall be kept

in a safe and neat condition. Nevertheless, farms or other businesses aside from home occupation uses located in agricultural districts may display a sign larger than 12 square feet, but only upon issuance of a special permit by the Zoning Board of Appeals pursuant to § 139-96.

- C. In business districts, there shall be permitted for each business conducted on the premises one sign or advertising device attached to the building, subject to the following conditions:
- (1) The area of the sign shall not exceed one square foot for each linear foot of frontage occupied by the business.
 - (2) Where a building has frontage on more than one street, there may be one sign for each street frontage.
 - (3) In the case of a sign consisting of letters or devices painted on or applied to a building, the area of the sign shall be taken as the area required to circumscribe all such letters or devices.
 - (4) Where a business or type of business is ordinarily identified by a freestanding sign or advertising device, one sign or device, in addition to a sign or signs attached to the building, may be permitted on approval of the Town Board.
 - (5) In the case of a sign or device attached to a building at right angles and designed to be read from both sides, the area of one side only need be counted.
 - (6) No sign or device shall overhang any public street or right-of-way.
 - (7) No portable or temporary signs on the exterior of a structure or on the premises are permitted, except for signs on buildings during their construction period. This prohibition includes banners, pennants and similar devices.

- (8) No sign or device shall be illuminated so as to constitute a hazard to safety or health, or to distract motorists on public highways, or so as to affect adversely neighboring property or the occupants thereof.
- (9) Flashing, blinking, scripting or noise-emitting signs are prohibited in all zoning districts.
- (10) Any signs or advertising devices existing at the time this chapter becomes effective and not conforming to the provisions thereof shall be removed or made to conform within six months of the date that this chapter becomes effective.
- (11) No permanent or temporary sign shall be placed in a public highway right-of-way or on public property without written authorization from the permitting agency or entity responsible for operation and maintenance of the public property or right-of-way.

§ 139-109. Home occupations.

- A. Home occupations are permitted only in those districts as specified in this chapter and shall conform to the following conditions:
 - (1) Such home occupation is customarily carried on in a dwelling unit; and
 - (2) Such home occupation is carried on by a member of the family residing in the dwelling unit; and
 - (3) Such home occupation conforms to the following additional conditions:
 - (a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.

- (b) Home occupations in accessory structures shall not exceed 30% of the floor area of the principal residential structure.
 - (c) There shall be no exterior display or exterior sign larger than six square feet, no exterior storage or materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 - (d) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- B. In particular, a home occupation includes but is not limited to the following: dressmaking, laundering, home cooking, teaching (musical instruction limited to a single pupil at a time), antique shops, barbershops, beauty parlors, bed-and-breakfast establishments and the skilled practice by an accountant, architect, artist, dentist, doctor, engineer, insurance agent, lawyer, musician, realtor or member of any other profession within a dwelling occupied by the same. However, a home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants and tearooms, musical instruction to groups, dancing instruction, tourist homes, convalescent homes, mortuary establishments and other trades and businesses of a similar nature. If any home occupation use is discontinued for one continuous year, a new application to resume the use must be made. In any event, the home accommodating the home occupation use must be occupied by the fee owner and must not be leased or rented to another.

§ 139-110. Solar access.

Pursuant to Chapter 742 of the Laws of 1979, the siting of houses to take best advantage of solar energy and/or the construction of residential solar equipment shall be considered in the application of the provisions of this chapter. Upon appeal

pursuant to § 139-94 of this chapter, the Zoning Board of Appeals shall consider the specific conditions of the case and may make provisions for, so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

§ 139-111. Junk and junkyards.

- A. No junk shall be located so as to be visible from public roads. No fluids from junk shall be drained or dumped on public or private property. No junk shall be buried or burned, except in compliance with the New York State Solid Waste Disposal Law. Disposal and storage of junk shall comply with New York State and Oneida County laws, rules and regulations.
- B. Junkyard operation. No junkyard shall be operated without a special permit pursuant to § 139-96C. In addition to the requirements and procedures set forth in § 139-96C, all junkyards shall be governed by the following:
 - (1) No junkyard shall be located within 25 feet of any adjoining property line; 50 feet of any public park, church, educational facility, nursing home, right-of-way of any public road or public building or other place of public gathering; or 200 feet of any stream, lake, pond, wetland or other body of water.
 - (2) There must be erected and maintained an eight-foot fence enclosing the entire junkyard with a locking gate. The fence must be adequate to prevent the entrance of children and others into the area, to screen the yard from view from the street or adjoining property and to contain the junk safely within.
 - (3) The aforesaid requirements are in addition to the requirements of General Municipal Law § 239 or any recodification thereof.

§ 139-112. Access.

No building permit shall be granted with respect to a parcel with limited access, except pursuant to the procedures set forth in Town Law § 280-a or any recodified or renumbered provision thereof. This provision shall be deemed to refer to any amendments to said statute, and, accordingly, the text of the statute at the time the building permit application is made will control.

§ 139-113. Bed-and-breakfast regulations.

In addition to the other regulations and procedures applicable to home occupation uses, applicants for bed-and-breakfast establishment approval must comply with the following:

- A. Detailed plans of the structure and layout of the residence must be submitted, together with a written statement from the Code Enforcement Officer as to safety, fire protection and structural soundness, with recommendations, if any, for improvements or changes deemed advisable.
- B. The applicant must demonstrate compliance with all applicable regulations, including the New York State Uniform Fire Prevention and Building Code.
- C. Bedrooms and bathrooms of the dwelling used for paying guest accommodations shall not exceed 1/3 of the habitable floor area of the dwelling, and no more than four rooms shall be used as bedrooms for paying guests.
- D. No more than eight guests per night (two guests per room maximum) shall be permitted, but the Planning Board may fix a lower maximum if appropriate. No guest shall stay on any one visit more than 15 days.
- E. There must be at least one off-street parking space per paying room.

- F. No apartments or rental units shall be permitted beyond the residents' living quarters and the bed-and-breakfast rooms.
- G. Only one daily morning meal per paying guest shall be served.
- H. A lighted sign, maximum six feet square, shall be permitted. Neon or flashing signs are not to be permitted.
- I. Upon a change of ownership, the new owner must reapply to the Planning Board for a renewal of the permit.

§ 139-114. Swimming pools.

- A. Swimming pools as defined in the New York State Uniform Fire Prevention and Building Code shall be enclosed by a fence or other barrier to access by children and shall also, in addition, comply with the pertinent provisions of the New York State Uniform Fire Prevention and Building Code.
- B. This provision concerning swimming pools applies to all such pools, whether built before or after the enactment of this provision.

ARTICLE XXVII

Towers and Telecommunications Facilities

§ 139-115. Authority.

The Planning Board of the Town of Vernon is hereby authorized to review and approve, approve with modifications or disapprove tower special use permits and site plans consistent with Article 16 of the Town Law of the State of New York, §§ 274-a and 274-b. All cellular towers, windmills and accessory facilities must comply with Article XXI and/or Article XVI, as applicable. The Zoning Board of Appeals will continue to have jurisdiction over special use permits for uses aside from telecommunications facilities.

§ 139-116. Intent.

The Town of Vernon recognizes the increased demand for wireless communications transmitting facilities and wind generation facilities and the need for the services they provide. Often, these facilities require the construction of a tower and associated structures. The intent of this article is to regulate telecommunications and wind generation facilities (i.e., towers) in accordance with the guidelines of the Telecommunications Act of 1996 by:

- A. Accommodating the need for towers/antennas while regulating their location and number in the community.
- B. Minimizing adverse visual impacts of these towers while regulating their location and number in the community.
- C. Preserving and enhancing the positive aesthetic qualities of the built and natural environment in the Town of Vernon.
- D. Avoiding potential damage to adjacent properties from tower failure, falling ice, etc., through engineering and proper siting.
- E. Requiring the joint use of towers, when available, and encouraging the placement of antennas on existing structures, to reduce the number of such structures in the future. No new tower may be established if there is a technically suitable space available on an existing telecommunications tower or structure within the search area that the new cell site is to serve.

§ 139-117. General criteria.

- A. No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:

- (1) Is necessary to meet current or expected demands for service;
 - (2) Conforms to all applicable regulations promulgated by the Federal Communications Commission, the Federal Aviation Administration and other federal agencies;
 - (3) Is considered a public utility in the State of New York;
 - (4) Is designed and constructed in a manner which minimizes visual impact to the extent practical;
 - (5) Complies with all other requirements of this chapter, unless expressly superseded herein;
 - (6) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility;
 - (7) When including the construction of a tower, such tower is designed to accommodate future shared use by at least one other telecommunications service provider. Any subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require Town staff review.
- B. A building permit is required for all new and collocated towers and structures in the Town of Vernon.

§ 139-118. Approvals; bulk requirements.

- A. Collocated/Existing structure antennas. An antenna that is to be attached to an existing communications tower, smoke stack, water tower or other structure is permitted in all zoning districts. However, all freestanding towers

(noncollocated/new structure antennas), individual or in group, shall be located on individual lots in preferred zoning districts. The antenna is permitted upon issuance of a building permit. The building permit application will include a structural analysis/report verifying the ability of the structure to handle the antenna. The height of the new antenna shall not extend above the height of the existing structure by more than 50 feet.

- B. Noncollocated/New structure antennas. An antenna that will not be mounted on an existing structure, as defined above, or is more than 50 feet higher than the existing structure on which it is mounted is permitted as follows:
- (1) In all zoning districts, a tower special use permit, per §§ 139-119 and 139-120, and site plan review as set forth in Article XXI of the Town Zoning Law.
 - (2) In addition to a State Environmental Quality Review Act (SEQRA) full environmental assessment form (EAF), the Planning Board may require a visual assessment form (visual EAF/SEQRA form) as an addendum to the full EAF for telecommunications facilities proposed at key viewpoints in the community. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.
 - (3) The tower must be set back a minimum of the height of the tower from all property lines and any existing building.
 - (4) The maximum height of a tower in all zoning districts is 195 feet. An area variance for height will be required from the Zoning Board of Appeals to exceed this height, following initial approval by the Planning Board.
 - (5) Towers shall be located on individual parcels of land and have free access for maintenance purposes.

§ 139-119. Tower special use permit application requirements and materials.

All applicants for a tower special use permit shall make written application to the Planning Board.

A. This application shall include:

- (1) Town-supplied permit application form.
- (2) Proof of notification (certified mail return receipts to be given to the Town by the applicant) of all property owners within 500 feet of the boundaries of the property on which the tower is to be constructed.
- (3) Appropriate fee. (See the Town fee schedule in § 139-124.)
- (4) Site plan application forms, including long-form EAF.
- (5) Site plan, in form and content acceptable to the Town according to Article XXI of the Town Zoning Law, prepared to scale and in sufficient detail and accuracy, showing at a minimum:
 - (a) The exact location of the proposed tower, together with guy wires and guy anchors, if applicable.
 - (b) The maximum height of the proposed tower.
 - (c) A detail of tower type (monopole, guyed, freestanding or other).
 - (d) The color or colors of the tower.
 - (e) The location, type and intensity of any lighting on the tower.
 - (f) The property boundaries. (A copy of a property survey, including metes and bounds description, must also be provided.)

- (g) Proof of the landowner's consent if the applicant will not own the property. (A copy of a lease agreement must also be provided if the applicant will not own the property.)
 - (h) The location of all structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures from the tower.
 - (i) The names of adjacent landowners.
 - (j) The location, nature and extent of any proposed fencing and landscaping or screening.
 - (k) The location and nature of proposed utility easements and access road, if applicable.
 - (l) Building elevations of accessory structures or immediately adjacent buildings.
 - (m) An agricultural data statement if located within 500 feet of an agricultural taxing district.
- (6) "Before" and "after" propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a professional engineer registered in the State of New York), demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility.
- (7) A search ring prepared by a qualified radio frequency engineer (signed and sealed documents by a professional engineer registered in the State of New York) and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide proper signal strength and coverage to the target cell. The applicant must

be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability or lack of availability of a suitable structure within the search ring which would have allowed for a collocated antenna(s), and to what extent the applicant explored locating the proposed tower in a more intensive use district. Correspondence with other telecommunications companies concerning collocation is part of this requirement.

- B. The Planning Board, upon reviewing the application, may request reasonable additional visual and aesthetic information as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from viewpoints selected by the Planning Board. Line-of-sight drawings and visual simulations are mandatory for applications in residential and agricultural zoning districts.

§ 139-120. Tower special use permit standards.

The following criteria will be considered by the Planning Board prior to the approval/denial of a request for a tower special use permit; the criteria listed may be used as a basis to impose reasonable conditions on the applicant.

A. Siting preferences.

- (1) The Planning Board may require that the proposed telecommunications facility be located in an alternate technologically feasible and available location. A guideline for the Town's preference, from most favorable to least favorable districts/property, is as follows:
 - (a) Property with an existing structure suitable for collocation.
 - (b) C-M Districts.

- (c) C-1 Districts.
- (d) Planned development districts.
- (e) Agricultural districts.
- (f) Planned Development Entertainment and Tourism Districts.
- (g) Agricultural/Residential districts.
- (h) Planned Unit Development Districts.
- (i) Residential districts.

B. Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

- (1) The Planning Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design.
- (2) The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and/or to screen the tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
- (3) The Planning Board can request additional site plan requirements such as specially designed towers, additional screening, greater setbacks and improved landscaping to address aesthetic concerns.
- (4) The Planning Board may require the applicant to show that he has made good-faith efforts to collocate

on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances.

- (5) Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be of a nonreflective finish, the color of which shall be subject to approval. Any lights which may be required by the FAA shall not consist of strobe lights, unless specifically mandated by the FAA.
 - (6) No tower shall contain any signs or advertising devices. A small sign on the fencing shall be placed to identify the ownership of the facility and a telephone number for emergencies.
 - (7) The applicant must submit a copy of its policy regarding collocation with other potential future applicants on the proposed tower. Such policy must allow collocation.
- C. Radio-frequency effect. The Planning Board may impose a condition on the applicant that the communications antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits, and that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.
- D. Traffic, access and safety.
- (1) A road turnaround and one parking space shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or

road rights-of-way for the siting of a tower's or antenna's accessory structures is prohibited.

- (2) All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently protected from trespassing or vandalism.
 - (3) The applicant must comply with all applicable state and federal regulations, including but not limited to FAA and FCC regulations.
- E. Removal of tower. The applicant shall agree to remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The Planning Board shall require the applicant to provide a demolition bond (in an amount determined by the Planning Board based on the cost of removal) for purposes of removing the telecommunications facility in case the applicant fails to do so as required above. The applicant shall submit to the Planning Board estimated costs for removal.
- F. Structural safety. During the application process and every three years after construction of the tower, the applicant/owner shall provide to the Codes Enforcement Officer a certification from a qualified, professional engineer, certifying that the tower meets applicable structural safety standards.
- G. Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair.

§ 139-121. Exemptions.

A. Exemptions shall be as follows:

- (1) Antennas used solely for residential household television and radio reception.

- (2) Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location.
- B. Towers and antennas may be repaired and maintained without restriction.

§ 139-122. Application procedure.

- A. The owner/applicant shall submit to the Planning Board a completed, written application and site plan under Article XXI. The procedure will be the same as called for in those sections except it will be followed by the Planning Board as opposed to the Zoning Board of Appeals. Upon receipt of such application and site plan, the Planning Board shall conduct a two-step review process. The Planning Board shall first determine whether the applicant qualifies for a special use permit according to §§ 139-119 and 139-120 of this article. Then, the Planning Board shall conduct site plan review in accordance with Article XXI of the Town Zoning Law.
- B. Any application requiring a tower special use permit and any other approvals from another board (i.e., Zoning Board of Appeals) must receive Planning Board approval prior to any action by any other boards.
- C. The Planning Board, in determining whether to issue a tower special use permit, shall follow the procedure set forth in Town Law § 274-b, entitled "Approval of special use permits." In the event such statutory provisions are renumbered or recodified, the renumbered or recodified provisions shall apply and are incorporated herein by reference. In particular, the Planning Board shall conduct a public hearing within 62 days from the date an application is received, with notice of said hearing to be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The Planning Board shall render its decision to issue the special use

permit within 62 days after the hearing as now provided in Town Law § 274-b(6). The Planning Board shall also comply with the notice requirements to the County Planning Board and other bodies as well as compliance with State Environmental Quality Review Act, all as provided in Subdivisions (7) and (8) of the aforesaid Town Law § 274-b.

- D. If the Planning Board approves a special use permit, the Planning Board shall then conduct site plan review. Site plan review shall be conducted in accordance with the procedures set forth in Article XXI of the Town of Vernon Zoning Law.
- E. The approval of the Planning Board shall be contingent on the receipt by the Town Board of a bond for the demolition of the telecommunications tower within five business days, and said bond shall be subject to the approval of the Planning Board and the Town Attorney.
- F. Any materials (i.e., proof of continued use of the tower) to be filed by the owner/applicant or any subsequent owner/operator of the communications tower shall be filed with the Codes Enforcement Office of the Town of Vernon on a yearly basis.
- G. The Planning Board may waive or vary any requirements in this article for good cause shown.
- H. This article is meant to control towers and similar facilities in the Town. Unless specifically referenced in this article, other sections of the Zoning Law are intended to be inapplicable (such as height limitations normally required in the relevant zoning district).

§ 139-123. Revocation of permit; removal of towers in violation.

Any facility receiving a tower special use permit that subsequently does not meet the requirements of that permit

shall have its permit revoked, and the tower shall be removed within 90 days of notification by the Town.

§ 139-124. Telecommunications facilities fee schedule.

Telecommunications facilities fees shall be as follows:

- A. Tower special use permit: application fee of \$2,500 (includes site plan fee); plus any additional costs for outside consultants incurred by the Town for review of propagation studies, search ring and analysis, collocation possibilities, or the structural planned specification for the construction of the tower, or any other review deemed necessary by Town officials.
- B. Building permit fee: base fee of \$250 (examination of plans and review); plus \$10 per \$1,000 of value of total verified construction cost.

ARTICLE XXVIII

Wind Power Uses

[Added 8-10-2009 by L.L. No. 1-2009]

§ 139-125. Wind power generating facilities.

Wind power generating facilities shall be a site plan review use in any Agricultural District as defined in § 139-12 and shall be issued only after compliance with the procedures for site plan review uses as set forth in Article XXI, Site Plan Review for Commercial, Industrial, Institutional and Multifamily Residential Uses. The Planning Board shall require, before permitting any such use, in addition to the requirements of Article XXI, compliance with the following standards:

- A. The site plan for a wind power generating facility shall include:
 - (1) Location of the tower on the site, including the maximum height of turbine components during use (e.g., blade tip for horizontal-axis device), and ground

clearance of moving components (e.g., blades) and tower heights, including blades, rotor diameter and ground clearance.

- (2) All utility lines, both above and below ground, within a radius from the tower base equal to the proposed tower height, including blades.
 - (3) Dimensional representation of the various structural components of the tower construction, including the base and footings.
 - (4) Design data indicating the basis of the design, including manufacturer's dimensional drawings, installation and operation instructions.
 - (5) Certification by a licensed professional engineer and manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures.
- B. No windmill, including blades, shall extend more than 500 feet above the average ground level measured at the base of the tower.
- C. No windmill shall be erected in any location where its overall height, including blades, is greater than the distance from its base to any property line.
- D. Access to the tower shall be limited either by means of a fence six feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than 12 feet from the ground.
- E. No windmill shall be installed in any location along the major axis of an existing microwave communications link where the operation of the windmill is likely to produce an unacceptable level of electromagnetic interference.
- F. Windmills shall be located or installed in compliance with the guidelines of the Federal Aviation Regulations with

regard to airport approach zones (15.503) and clearance around VOR and DVOR stations.

- G. No windmill shall be installed in a location where the impact on the neighborhood character is determined by the Planning Board to be detrimental.
- H. If the windmill is to be interconnected to an electric utility distribution system, the applicant shall provide evidence of approval of the proposed interconnect by the power company.
- I. Guy wires and anchors for towers shall not be located closer than the required accessory structure setback.
- J. All windmills shall be designed with an automatic brake to prevent overspeeding and excessive pressure on the tower structure.
- K. The minimum distance between the ground and any protruding blades shall not be less than 10 feet as measured at the lowest point of the arc of the blades.
- L. Noise limitations. The level of noise produced during wind turbine operation shall not exceed 50 dBA beyond the present ambient sound levels at preconstruction levels, as measured at the boundaries of the closest parcels that are owned by non-site-owners and that abut either the site parcels or any other parcels adjacent to the site held in common by the owner of the site parcel, as those boundaries exist at the time of the special use permit application. The applicant will be required to submit technical data demonstrating satisfaction as to this requirement. This obligation shall be a continuing legal obligation, with exceptions only for short-term events such as utility outages and severe windstorms.

§ 139-126. Private wind energy conversion systems.

Private wind energy conversion systems shall be a special permit use and accordingly permissible only upon the issuance

of a special permit in accordance with the procedure set forth in § 139-96, Powers and duties, criteria for decisions, Subsection C, Special permit uses. In addition to the criteria required in § 139-96C, the applicant for a private wind energy conversion systems special permit would have to meet the following criteria:

- A. A private wind energy conversion system (PWECS) shall be an accessory use with respect to every principal structure erected and used in conformity with this chapter. A PWECS may be installed pursuant to a special permit to be obtained from the Zoning Board of Appeals of the Town based on an application for such a permit on a form established by the said Zoning Board of Appeals. The purpose of the application will be to assure compliance with the following requirements, and such application shall include the following:
- (1) Name and address of the applicant.
 - (2) Evidence that the applicant is the owner of the premises involved or that the applicant has written permission of the owner to make such an application.
 - (3) A development plan drawn in sufficient detail to clearly describe:
 - (a) Property line and physical dimensions of the proposed site;
 - (b) Location, dimensions, and types of existing structures and uses of the site;
 - (c) Location of the proposed PWECS;
 - (d) Location of above-ground utility lines on site or within one radius of the total height of the PWECS, including the furthest vertical extension of the rotor assembly;
 - (e) Location and size of the largest structure taller than 35 feet or tree which may potentially grow

taller than 35 feet during the lifetime of the PWECS within a five-hundred-foot radius of the proposed PWECS;

- (f) Where applicable, the location of all transmission facilities proposed for installation; and
 - (g) Where applicable, the location of all road and other service structures proposed as part of the installation.
- B. The installation of all wind energy conversion systems shall comply with the following requirements:
- (1) Size. Only PWECS whose swept area is 500 square feet or less shall be permitted. For conventional propeller PWECS, this would be a diameter of approximately 25 feet.
 - (2) Compliance with the New York State Building and Construction Code.
 - (a) All applications shall be accompanied by standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings. The application shall also include engineering data and calculations to demonstrate compliance of the support structure with seismic and structural design provisions of the Building Code. Drawings and engineering calculations shall be certified in writing by a New York State licensed engineer.
 - (b) All equipment and materials shall be used or installed in accordance with such drawings. The above certifications by a professional engineer shall be deemed to satisfy all applicable requirements of the Building Code.
 - (3) Compliance with National Electrical Code.

- (a) Applications shall be accompanied by a drawing identifying the location of metering, protection and control devices, and transformer equipment in sufficient detail to allow for a determination that the manner of installation will conform to Articles 250 (Grounding), 280 (Lighting Arrestors), 300 (Wiring Methods), 310 (Conductors for General Wiring), 430 (Motors), 445 (Generators) and 450 (Transformers and Transformer Vaults) of the National Electrical Code. The application shall include a statement from a New York State licensed engineer indicating that the electrical system conforms with good engineering practices and complies with the above-mentioned articles of the National Electrical Code. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
- (b) The above certification by a licensed engineer shall be deemed to satisfy all applicable requirements of the National Electrical Code.
- (4) Rotor safety. Each PWECS must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a New York State licensed engineer certifying that the rotor and overspeed controls have been designed and fabricated for the purposed use in accordance with good engineering practices. The engineer must also certify the compatibility of towers with available rotors.
- (5) Guy wires. Anchor points for guy wires shall be located within property lines and not on or across any aboveground electric transmission or distribution line. Guy wires shall be enclosed by a fence six feet high or the PWECS shall be set back

from the property line the total height of the PWECS.

- (6) Tower access. Lattice towers capable of being climbed shall be enclosed by a locked, protective fence at least six feet high. Other towers should have either:
 - (a) Tower-climbing apparatus located not closer than 12 feet from the ground;
 - (b) A locked anti-climb device installed on the tower; or
 - (c) The tower shall be completely enclosed by a locked, protective fence at least six feet high.
- (7) Electromagnetic interference: A PWECS shall comply with the provisions of 47 CFR, Parts 15 and 18. The PWECS shall be operated such that no harmful interference is caused. When notified by the Zoning Enforcement Officer that a wind energy conversion system is causing harmful interference, the operator shall promptly take steps to eliminate the harmful interference.
- (8) Signs. At least one sign shall be posted at the base of the tower warning of high voltage. The sign shall also include:
 - (a) Emergency phone number;
 - (b) Emergency shutdown procedures; and
 - (c) Name, address and telephone number of the tower owner.
- (9) Utility notification. No wind turbine shall be interconnected with a utility company's grid until said company has been notified and written approval has been received from said utility company.

- (10) **Height.** It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. An on-site-use wind energy conversion system shall not exceed a total height of 100 feet for single-family residential applications (less than or equal to 25 kW) and shall not exceed a total height of 150 feet for nonresidential applications [i.e., farm, small business, etc. (less than or equal to 125 kW)] from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point, provided that the application includes specific evidence that the proposed total height does not exceed the height recommended by the manufacturer or distributor of the on-site-use wind energy conversion system.
- (11) **Setbacks.** Wind energy conversion systems shall comply with all setbacks within the affected zone. However, in addition, all on-site-use wind energy conversion systems shall be set back a distance equal to the height of the tower plus blade length plus an additional 25 feet from all property lines, public roads, power lines and preexisting and future structures. Additional setbacks may be required by the reviewing board in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.
- (12) **Decommissioning.** The applicant shall submit to the Zoning Board of Appeals a letter of intent committing the owner, and his or her successors-in-interest, to notify the Building Inspector within 30 days of the discontinuance of the use of the on-site-use wind energy conversion system. This letter of intent shall be filed with the Zoning Board of Appeals prior to the issuance of a special permit. The owner shall remove the obsolete or unused wind turbines and accessory structures within one year of such notification. Failure to notify

and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this section, and the cost of removing the on-site-use wind energy deriving tower and accessory structures shall be placed as a lien on the property owner's tax bill. In addition, a reclamation bond shall be filed with the Town Clerk to cover the costs of reclamation of the tower. Should the wind energy conversion system be nonoperational for any continuous six-month period, the approvals granted shall be deemed void, and the wind energy conversion system shall be decommissioned subject to a new approval under this section. Such bond shall be in place prior to the issuance of a building permit.

ZONING
139 Attachment 1

TABLE OF ZONING MAP AMENDMENTS

Local Law No.	Adoption Date	District Change	Description
—	4-7-1986	From A to A-2	Wilmot property, deed recorded in County Clerk's office in Book 2258 at page 50.
—	7-7-1986	From A to R-MHP	Zambito property; Tax Map No. 312.00, Section 1, Parcel 35
—	6-22-1987	From C-M to A	Thieme, Goodridge and Eaton properties; Tax Map No. 324, Block 1, Lots 75.1, 75.2 and 74
—	5-24-2001	To PDET	Tax Map Parcel Nos. 334.000-1-1.61; 334.000-1-1.62; 334.000-1-1.63; 334.000-1-1.64; 334.000-1-1.65; 334.000-1-1.67; 334.000-1-1.68; 334.000-1-1.69; 334.000-1-1.70; 334.000-1-1.73; 334.000-1-1.74; 334.000-1-1.75; 333.000-1-57
—	8-6-2007, effective upon being filed with Secretary of State	Adoption of new Zoning Law and Map	
1-2008	3-17-2008	From A to C-1	Tax Map Parcel Nos. 332.000-1-13 and 323.000-1-20.2
1-2011	12-6-2010	To PDET	Tax Map Parcel No. 324.000-1-66.1 and a portion of Parcel No. 324.000-1-63.1

ZONING

139 Attachment 2

