

**ZONING LAW OF THE  
TOWN OF SENNETT**

**OCTOBER 16, 2014**

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**ARTICLE I  
GENERAL PROVISIONS**

***Section 100***      **Title; Scope; Purposes; Interpretation of Provisions; Conflict with State Law.**

A.     **Title.** This Law shall be known and may be cited as the “Zoning Law of the Town of Sennett.”

B.     **Scope.** This Law regulates the location, design, construction, alteration, occupancy and use of structures and the use of land in the Town of Sennett, dividing the Town into land use districts.

C.     **Purposes.** The Zoning Law of the Town of Sennett is enacted in conformance with the Town of Sennett Comprehensive Plan adopted on September 22, 2009, to protect and promote: public safety and health; agriculture; well-planned land use and zoning; housing and open space; the Town’s commercial corridors, transportation, infrastructure and utilities; emergency services, natural resources and the general welfare of the community and the following additional purposes:

1.     To conserve the natural resources and rural character of the Town by permitting development in the most appropriate locations and by limiting development in areas where it would conflict with the Town’s rural landscape.

2.     To protect wooded areas, scenic views, agricultural lands, existing and potential recreation areas, waterways, ground and surface water supplies, ecological systems, wetlands, wildlife habitats and natural vegetation, and to maintain large areas of contiguous open space in their current undeveloped state, in order to preserve the predominantly open and rural character of the Town.

3.     To encourage agriculture to continue and prosper because of its importance to the local economy and to the preservation of open space and avoid regulation of agricultural uses in a manner that unreasonably restricts or regulates farm structures or farming practices.

4.     To integrate varied types of housing and land uses in the Town in order to encourage social and economic interaction and pedestrian activity, while reducing unnecessary automobile and truck traffic.

5.     To encourage a range of housing opportunities for all segments of the local population.

6.     To protect residents from non-agricultural nuisances, noise, odors, light, pollution and other unsightly, obtrusive and offensive uses and activities.

7.     To locate commercial and other non-residential uses in a manner that is convenient to residences, reduces use of automobiles and allows landowners to make beneficial economic use of their land provided that such uses are not harmful to neighboring properties or the natural environment.

8.     To encourage the conservation of energy and the appropriate use of green technologies including solar, wind and other renewable energy resources.

9. To ensure a flexible system of land use regulation that enables the Town to grow its commercial corridors while preserving its most important natural, historic and cultural features.
10. To promote safety from fire, flood, panic and other dangers.
11. To prevent the overcrowding of land and to avoid excessive concentration of population.
12. To encourage the adequate provision of schools, parks, public facilities and utilities.
13. To encourage the expansion of broadband internet and other communications to underserved areas.
14. To prevent the potential negative impacts of heavy industry on the Town's infrastructure and upon its citizens and land resources.

These purposes shall be accomplished by observing the provisions of the State Environmental Quality Review Act (SEQRA) with respect to the creation or modification of zoning laws and while observing all regulations contained in 6 NYCRR Part 617 (as amended).

D. **Interpretation of Provisions.** All provisions of this Law shall be construed to fulfill the purposes stated in Subsection C above and the policies expressed in the Town of Sennett Comprehensive Plan.

E. **Conflict with State Laws.** To the extent that any provisions of this Local Law are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, §§ 261 through 285, the Town Board of the Town of Sennett hereby declares its intent to supersede those sections of the Town Law, including but not limited to, in particular §261-A, §261-B, §261-C, §267, §267-A, §267-B, §268, §271, §274-A, and §274-B pursuant to its home rule powers under Municipal Home Rule Law, Article 2, §10 *et seq.*, of the Consolidated Laws of the State of New York.

## ARTICLE II DEFINITIONS

### Section 200 **General.**

A. Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Law the meanings given in the following clauses.

B. For the purpose of this Law words and terms used herein shall be interpreted as follows:

1. Words used in the present tense include the future.
2. The singular includes the plural.
3. The term "person" includes a corporation, partnership, and association as well as the individual.
4. The word "lot" includes the word "plot" or "parcel".
5. The term "shall" is mandatory.
6. The word "used" or "occupied" as applied to any land or building shall be



construed to include the words “intended, arranged, or designed to be occupied”.

C. Any word or term not defined herein shall be used with a meaning of standard use.

**Accessory.**

A. **Accessory Building.** (See Building, Accessory)

B. **Accessory Use.** (See Use, Accessory)

**Administrative & Management Services.** Any premises used for office and clerical purposes, not to include any manufacturing or retail uses.

**Adult Day Care.** Any premises used for the care of adults with a functional impairment or impairments who generally arrive and depart the premises daily.

**Adult Use.** Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities, including, but not limited to, adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult drive-in theaters, adult motels, adult motion-picture theaters, adult novelty stores and massage establishments.

A. Specified anatomical activities include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, pubic hair or buttocks or female breast(s) below a point immediately above the top of the areola.

2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

B. Specified sexual activities include any of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.

3. Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

4. Excretory functions as part of or in connection with any of the activities as set forth in Subsection B(1) through (3) of this definition.

**Adult Arcade.** An establishment where, for any form of consideration, one or more still or motion-picture projectors, slide projectors, or similar machines or other image-producing machines, for viewing for five (5) or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities.

**Adult Bookstore or Video Store.** A business which derives twenty-five percent (25%) or more of its gross income from the sale, or rental, or utilizes twenty-five percent (25%) or more of its retail selling area for, or has stock comprised of twenty-five percent (25%) or more of any of the following: books, magazines, periodicals, films, motion pictures, videocassettes, DVDs, slides, compact discs and/or computer generation or their visual representations which are characterized by the depiction and description of specified sexual activities or specified anatomical areas.

**Adult Cabaret.** A nightclub, bar, restaurant, bottle club, juice bar, club or similar commercial establishment, whether or not alcoholic beverages are served, which features:

- A. Persons who appear nude or in a state of nudity or semi-nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical activities or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities.

**Adult Drive-in Theater.** A drive-in theater that customarily presents motion pictures closed to minors by reason of age and which displays films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities.

**Adult Live Entertainment.** A business where an adult male or female exposes parts of his or her body identified as specified anatomical activities.

**Adult Motel.** A hotel, motel or similar business which:

- A. Offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical activities and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- B. Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- C. Allows a tenant or occupant to subrent the sleeping room for a period of time less than ten (10) hours.

**Adult Motion-Picture Theater.** An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities for observation by patrons therein.

**Adult Novelty Store.** A business which derives twenty-five percent (25%) or more of its gross income from the sale or rental of, or utilizes twenty-five percent (25%) or more of its retail selling area for or has stock comprised of twenty-five percent (25%) or more of any of the following: instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the purchaser or others.

**Alterations.** As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**Animal Day Care/Shelter/Kennel.** Any facility that cares for multiple pets or domesticated

animals, for training, breeding, boarding or harboring, whether for profit or not.

**Area.**

A. **Lot Area.** The total area contained within the lot lines of an individual parcel of land, excluding any area within an existing right-of-way of any street, roadway or highway.

B. **Building Area.** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

C. **Floor Area.** The sum of the areas of the several floors of the building structure, including areas used for the human occupancy and basements, as measured from the exterior faces of the walls. It does not include cellars, unclosed porches and attics not used for human occupancy.

**Asphalt & Concrete Mixing Plants.** Any premises used primarily for the mixing of gravel, tar, cement, or other materials to create asphalt or concrete as part of a commercial or industrial enterprise.

**Assembly/Fabrication/Packaging.** Any facility designed primarily for the use of assembling components, fabricating components, or packaging of materials or products.

**Basement.** A story partly underground, but having one-half or more of its height (measured from floor to ceiling) above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement or determining square footage.

**Bed and Breakfast.** An owner-occupied establishment which provides overnight accommodations and a morning meal to people who rent rooms in the owner-occupied establishment. The structure must appear to be an ordinary dwelling and shall display no other than a single sign no larger in surface area than four (4) square feet. Guests may be provided with morning meals only and may be lodged no more than fourteen (14) consecutive days. No more than four (4) guest rooms may be available for guests. No more than eight (8) guests will be lodged at one (1) time, except for minors in the company of adult guests.

**Boarding House/Rooming House.** A building or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation for three (3) to fifteen (15) unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one (1) week in duration.

**Bookstore.** Any retail establishment with the primary purpose of buying or selling printed or electronic books and other reading materials.

**Building.** Any structure or series of connected structures having a roof or roofs supported by columns or walls and intended for shelter, housing, or enclosure of persons, animals, or property. The word "building" shall include any part thereof.

A. **Building, Accessory.** A subordinate building located on the same lot as a principal building and clearly incidental and subordinate to the principal building. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

B. **Building, Detached.** Any freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the

zoning lot.

C. **Building, Principal.** A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

**Building Height.** A vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck lines of mansard roofs and to the mean height between the eaves and ridge for gable, hip, and gambrel roofs.

**Building Coverage.** That percentage of the plot or lot area covered by the building area.

**Café/Internet Café/Coffee Bar - Outdoor Seating Approved.** Any coffee house, deli, or bar (other than a Restaurant) where beverages or foods may be prepared and sold, whether consumption of such beverages or foods occurs on or off premises; such uses may be permitted in conjunction with Bookstores.

**Car Wash.** A facility for the washing or steam cleaning of passenger vehicles. The term shall include a single unit facility which has a single bay and a facility which has a group of single bays with each bay to accommodate one (1) vehicle only. Car wash shall also include a facility designed as a tunnel which allows washing of multiple vehicles in a tandem arrangement while moving through the facility.

**Care Facility/Residence or Shelter.** A hospital, nursing home, medical clinic or office building for doctors and other medical personnel, including any residential facility in which the residents receive medical, nursing or other care meeting the needs of daily living because of the residents' state of health, including but not limited to assisted living, congregate care and rehabilitation facilities.

**Carnival/Circus/Festival/Show/Exhibition.** Any temporary, traveling or itinerant commercial amusement enterprise used for exhibitions of horsemanship, acrobatic performances, acts of clowns, feats of animal training or the like open to the public, whether or not a fee is charged to spectators or participants.

**Cellar.** A story partly underground and having more than one half of its height (measured from floor to ceiling) below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories or square footage.

**Cemetery/Crypt.** Any land, place, structure, facility, building, grave, mausoleum, vault, columbarium, or other receptacle specifically designated for the repose of deceased human remains.

**Child Care Center.** An institution which regularly provides supplemental parental care and supervision to a group of non-related children for less than twenty-four (24) hours per day. Schools themselves are not classified as child care centers. As used in this Law, the term is not intended to include babysitting services of a casual, non-recurring nature or those provided in a child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective homes.

**Child Care, In-Home.** A private residence where care, protection and supervision of children are provided, for a fee, in compliance with Section 390 of the Social Services Law and all applicable regulations.

**Clinic/Rehab/Therapy - Outpatient.** Any building or portion of a building containing an office or offices of medical doctors, dentists, psychiatrists, chiropractors, physical therapists and other members of the medical profession which provide facilities and services for outpatient care, diagnosis, treatment, and observation of individuals suffering from illness.

**Commercial Mobile Service.** Cellular telephone services, special mobile radio services and personal communication services as those terms are defined and regulated by the FCC.

**Community Center/Recreation Center.** Any facility for use by the general public or community, wherein social, artistic, recreational, welfare, health, habilitation, or rehabilitation services are provided, whether operated for profit, not-for-profit, or by a municipality.

**Concrete - Precast.** Any commercial operation that pre-casts concrete into molds for structural or safety uses such as New Jersey barriers, cemetery vaults, or blocks.

**Construction Services.** Any commercial operation intended to serve the commercial or residential building, construction, masonry, carpentry or similar industry.

**Construction Services, Home-Based.** A use customarily associated with a particular building trade such as carpentry, plumbing or other specialized contractor which is based from the tradesman's home, but which does not occur on premises.

**Convenience Store.** Any retail store intended to serve local neighborhoods, passing motorists, and the general public by providing a limited range of packaged foods and beverages, along with consumer household goods. Gas sales are allowed as part of a convenience store.

**Crematorium.** Any facility used for processing deceased human or animal remains by cremation.

**Diner/Eat Inside.** An eatery facility designed to serve eat-in customers on premises and generally characterized by the use of stool-seating around a counter service area complimented by supplemental booth-seating.

**Dog Grooming Facility.** Any building or facility used for cleaning or grooming of dogs without providing overnight accommodation.

**Dwelling.** A building designed or used exclusively for one (1) or more dwelling units. The terms "dwelling," "single family dwelling," "two family dwelling" or "multi-family dwelling" shall not be deemed to include a motel, hotel, or mobile home.

A. **Dwelling Unit.** Any room or group of rooms located within a residential building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one (1) family.

B. **Dwelling, Single Family.** A dwelling having (i) only one (1) dwelling unit from ground to roof, (ii) independent outside access, and (iii) open space on all sides.

C. **Dwelling, Two-Family.** A building designed for or occupied exclusively by two (2) families living independently of each other.

D. **Dwelling, Multi-Family.** A building used or designed as a residence for three (3) or more families living independently of each other. A Townhouse shall not be deemed to be a

“Multi-Family Dwelling”.

E. **Dwelling, Townhouse.** A dwelling unit that makes provisions for living and sleeping facilities for one (1) family and which is one of a series of two (2) or more units having a common wall between each adjacent unit. Each adjacent unit shall have a private outside entrance, separate utilities and be located on a separate lot from the dwelling(s) to which it is attached. No more than a single dwelling unit shall be contained in any single ground to roof unit.

F. **Dwelling, In-Law Apartment.** A separate living space within a single family dwelling unit consisting of separate sleeping, cooking and bathroom facilities and which is intended to be occupied by the father, mother, aunt, uncle, grandparent, grandchild, son or daughter by blood, marriage or legal adoption of the owner of the single-family dwelling. In-law apartments may be occupied only by members of the family unit occupying the single-family dwelling or by in-laws of a member of said family unit.

**Educational Facility.** Premises used for the development of private or public education, including but not limited to schools, colleges, vocational schools, and BOCES facilities.

**Emergency Services Facility.** Premises used for either private or public emergency response operations including but not limited to fire departments, ambulance services, and search and rescue operations.

**Family.** One (1) or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**Farm.** One (1) or more parcels of land operated as a unit as either a principal or accessory use for the purpose of producing agricultural, horticultural, floriculture, vegetable and fruit products of the soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, grapes, wool and hides, but shall not include the breeding, raising or maintaining of furbearing animals or abattoirs, riding academies, livery stables or animal kennels. A garden accessory to a residential use shall not be deemed a farm or farm use. A principal farm use may include a dwelling or dwellings as an accessory use.

**Farm/Dwelling for Farm Workers.** Any premises or property used as a residence and located on a farm for the purpose of housing the owners and/or workers of that particular farm.

**Farm Stand for Sale of Produce.** An outdoor retail enterprise designed for the sale of farm produce to the public sold from the farm premises.

**Financial Institutions/Banks.** Any bank, securities institution, savings and loan institution, credit union or other financial institution that provides retail banking services to individuals or businesses. The term shall also include institutions engaged in the on-site circulation of cash money.

**Funeral Home/Mortuary.** Premises used for the provision of services such as preparing human remains for burial, and arranging and managing funerals. This term does not include cemeteries, crematoriums and columbariums.

**Golf Course/Regulation.** An area of land laid out for the primary purpose of playing or

teaching golf with a series of nine (9) or eighteen (18) holes, each including tee, fairway, and putting green, sometimes including natural or artificial hazards. A golf course may be public, private, or semi-public. The term includes any restaurant or pro shop services located on site.

**Government Facility/Town, County, State, Federal.** Any building, structure, parcel, or tract owned or operated by either the United States, New York State, Cayuga County, or the Town of Sennett.

**Grain Elevator.** Any storehouse or other operation used to lift, load or prepare for transport threshed grain or animal feed.

**Greenhouse/Nursery - Commercial.** Any premises devoted to the growing of flowers, plants, shrubbery and trees for retail sale.

**Hatchery - Fish.** Any operation designed for the hatching and raising of fish.

**Home Occupation.** The conducting of an occupation or profession entirely within the confines of a dwelling which is clearly incidental and secondary to the use of the dwelling for residential purposes. (See 504.7)

**Hospital.** Any sanitarium, sanatorium, preventorium, clinic, or any other facility or institution, licensed and approved by New York State, used for the diagnosis, treatment or care of sick, ailing, or injured patients. (See Care Facility/Residence or Shelter).

**Hotel.** A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more facilities incidental to such occupancy, such as dining rooms, restaurants, meeting rooms, lounges, swimming pools and related incidental uses designed primarily to accommodate the occupants thereof but also open to the general public. (See Motel).

**Landscape/Garden Center.** Any establishment that grows or sells gardening or landscaping supplies, products, seeds, or plants, and as part of the use provides customers with products or advice on gardening or landscaping.

**Laundromat/Dry Cleaning.** Any commercial laundry facility that uses coin or card operated machines for the washing or drying of clothing or linens or that provides a commercial laundering service for customers regardless of whether or not washing or dry cleaning of clothing or linens actually occurs on the premises.

**Library/Museum.** Any facility that houses books, transcripts, photos, or artwork for the use or viewing by the general public.

**Light Industrial.** Manufacture, assembly, treatment, packaging of products or other similar uses that do not emit objectionable levels of smoke, noise, dust, odor, glare or vibration beyond the property boundaries.

**Light Manufacturing.** The transformation of raw materials into finished goods for sale, or intermediate processes involving the production or finishing of semi-manufactured products usually accomplished by means of a industrial operation with the use of industrial machines which does not emit objectionable levels of smoke, noise, dust, odor, glare or vibrations beyond the property boundaries. Specifically excluded from this definition is any facility with a process or manufacturing procedure that creates a fuel or generates power that is exported from the

facility.

**Lot.** A parcel of land used or set aside and available for use as the site of one (1) or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street, not including any land within the right-of-way of a public or private street upon which said lot abuts, even if ownership to such way is the same as that of the lot. A lot for the purpose of this Law may or may not coincide with a lot of record.

A. **Corner Lot.** A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

B. **Depth of Lot.** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the lot lines.

C. **Lot Area.** See Subsection A under “Area.”

D. **Lot Width.** The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

**Lot Line.** Any boundary line of a Lot.

**Lumber Yard.** Any use where building materials or lumber are available for purchase, retail, wholesale or rent, including tool and equipment sales or rental establishments, and building contractors’ yards.

**Manufacturing.** The transformation of raw materials into finished goods for sale, or intermediate processes involving the production or finishing of semi-manufactured goods. It is usually accomplished by means of a large-scale industrial operation with the use of industrial machines. Specifically excluded from this definition is any facility with a process or manufacturing procedure that creates a fuel or generates power that is exported from the facility. This use does not include chemical manufacturing but does include any facility operated for the use, sale, manufacture or assembly of electrical manufacturing, mechanical manufacturing, technical manufacturing, or optical manufacturing.

**Massage Establishment.** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or office of a physician or surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist or barbershops or beauty shops in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs, which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

**Meatpacking Plant/Slaughterhouse.** An establishment designated or used for the slaughter of livestock or the processing, wholesaling or packaging of meats.

**Mixed Use Commercial and Residential.** A single building containing residential uses in addition to nonresidential uses which are otherwise permitted in the district. Mixed uses will



only be permitted by special use permit in the C/LI, I, COD and & H-L districts.

**Mobile Home/Factory Manufactured Home.** As used in this Law the terms “mobile home” and “factory manufactured home” are defined by the terms of the N.Y.S. Uniform Fire Prevention and Building Code, Section 372, as now constructed or hereafter amended.

**Monument Works.** Any establishment used for the business of creating, selling or erecting of memorial monuments including but not limited to headstones, pillars, and statues.

**Motel.** A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers, each of which sleeping unit is provided with a separate off-street parking space and a separate exterior entrance, together with any incidental uses permitted for a hotel. (*See* Hotel).

**Nonconforming Lot, Structure, and Use.** (*See* Section 1301(A), (B)).

**Office - Professional/Studio.** A room or building used for the professional services of a commercial, industrial, or professional organization.

**Office Building.** A building housing offices and any other rooms dedicated to the transaction of a commercial or governmental enterprise.

**On-Site Use Wind Energy Conversion System or Small Wind Energy System.** A wind energy conversion system consisting of a wind turbine, a tower, and associated controller-conversion electronics which has a rated capacity of no greater than fifty (50) kW for single-family residential related use and no greater than one hundred twenty-five (125) kW (for nonresidential and farm applications) and which is intended to reduce on-site consumption of utility power.

**Parcel.** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

**Parking Garage.** Any building or portion of a building that is used on a daily basis for public or private parking. A parking garage may include some accessory off-street parking spaces for uses on the same lot.

**Parking Lot (Primary Use).** Any tract of land that is used on a regular daily basis for public or private parking and is not accessory to a use on the same or another lot.

**Personal Service - Barber Shop/Beauty Salon/Nail Salon/Tanning.** Any barber shop, beauty salon or parlor, nail salon or parlor, or tanning booth operations in a building or portion of a building offered to the public. Adult uses are expressly excluded from personal service uses.

**Petroleum Bulk Storage.** Premises designed for bulk storage or wholesale trade and distribution of petroleum products meeting all New York State safety regulations for diking, fencing & safety controls.

**Portable Storage Structure.** Any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed complying with all building codes and land use requirements, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside of an enclosed building.

**Premises.** A lot, together with all of the structures and uses thereon.

**Printing & Publishing.** Premises used for the commercial publication, printing or reproduction of books, magazines, newspapers, posters, graphics, banners, clothing or other merchandise for distribution or sale.

**Recreation and Entertainment Facility - Indoor.** An entirely enclosed building or facility which offers commercial indoor sports activities including but not limited to tennis, batting cages, bowling, skating, racquetball, arcade games, volleyball, basketball, indoor soccer, martial arts, miniature golf, paint ball, laser tag or similar activities. This use may include associated accessory eating and drinking areas, retail sales areas and staff offices.

**Recreation and Entertainment Facility - Outdoor Including Campground.** Any recreation facility where any portion of the featured activity takes place outside. This includes but is not limited to campgrounds, golf driving ranges, batting cages, riding arenas and corrals, racquet sports, miniature golf, paint ball, archery range, or similar activities. This use may include associated accessory eating and drinking areas, retail sales areas and staff offices. This definition does not include motorized vehicle sports such as go-cart tracks, dirt bike trails and all-terrain vehicle trails or racing facilities.

**Recreation/Golf Course - Mini Golf.** Any facility or premises used for playing miniature golf, or other golf related facility or premises consisting primarily of putting areas. This use may include associated accessory eating and drinking areas and retail sales areas.

**Recycle Center - Scrap Metal/Shredding.** Any facility used for the collection, shredding or temporary storage of scrap metals.

**Recycle Center - Cans and Bottles.** Any facility used for the collection or temporary storage of cans or bottles for redemption or recycling.

**Religious Use.** Any church, synagogue or other place of religious worship, as well as a monastery or other place of religious retreat.

**Residential Accessory Use - Garage/Shed/Private Greenhouse.** A use customarily incidental and subordinate to the principally residential use or building and used in conjunction with such principal residential use or building, including but not limited to a garage, shed, or greenhouse.

**Reservoir/Public Water.** Any watershed, lake or reservoir where water is stored for public consumption.

**Restaurant.** Any sit down restaurant or drive-thru restaurant.

A. **Restaurant, Sit Down.** A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter and consumed on the premises.

B. **Restaurant, Drive-Thru.** A business where food and/or beverages are sold in a form ready for consumption, where a portion of the consumption takes place, or is designed to take place outside the confines of the restaurant, and where customer ordering and pickup of food is available to take place from an automobile.

**Retail Store.** An establishment selling goods to the general public for personal and household

consumption, including but not limited to an appliance store, baker, drugstore, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationery store and variety store.

**Right-of-Way.** Land set aside for use as a street, alley or other means of travel and for placement of utilities.

**Rod and Gun Club.** Any property or premises designated for activities involving the sport of shooting, fishing, or hunting whether public, or private, or semi private.

**Satellite Dish 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, microwave or other electronic signals from space satellites. Such an antenna shall be considered a “structure” within the meaning of this Law.

**Saw Mill.** A mechanized facility designed for cutting logs into lumber.

**Seasonal Sales.** Any premises or facility used for the sale of products typically identified with a particular season, including products such as Christmas trees or flowers. Premises may be used for seasonal sales for no more than three (3) months in a given calendar year.

**Sewer.**

A. **Public Sewer.** A “public sewer” is any municipal or privately owned sewer system in which sewage is collected from buildings and piped to an approved sewage disposal plant or central septic tank disposal system. It may also be referred to as “off-lot” or “off-site” sewer.

B. **Private Sewer.** An “on-lot” septic tank disposal system generally providing for disposal of effluent for only one (1) building on a single lot.

**Shopping Center.** Any group or series of attached or unattached buildings or structures existing on the same lot and used for retail or services purposes.

**Sign.** (See Section 901).

**Sod Farm.** Any facility, parcel, plot, or tract of land devoted to the growing of grass or producing sod for commercial purposes.

**Stable - Private.** An accessory building where horses or other animals are kept for private use and not for hire, remuneration or sale.

**Stable - Public.** A building where horses are kept for instruction, training, hire, remuneration or sale.

**Story.** The portion of a building enclosed between the surface of any floor and the surface of the floor next above it or if no floor above it, then the space between any floor and the ceiling next above it.

**Street.** A public or private way used or intended to be used for passage or travel by vehicles.

**Street Line.** The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way provided that where a future right-of-way width for a road or street has been established, then that width shall determine the location of the street line.

**Structure.** A combination of materials assembled, constructed or erected at a fixed location including a building, the use of which requires location on the ground or attachment to something having location on the ground. A driveway shall not be considered a structure.

**Tattoo Parlor/Piercing.** Any business establishment where tattooing or body piercing is performed. The term “tattooing” shall include any inserting of a pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark resulting in a design, picture or words visible through the skin.

**Terminal - Motor or Rail.** Any location where freight originates, terminates or is handled in the transportation process or where carriers maintain operating facilities, excluding the premises of shippers or receivers of freight.

**Theater - Indoor.** Any premises, building or facility used primarily for indoor performances, shows, arts, motion pictures, or other similar acts or productions not otherwise classified.

**Theater - Outdoor/Performing Arts.** Any plot, parcel or tract of land or outdoor structure used or designed for the presentation of concerts, plays, films, or other dramatic performances.

**Tower.** A structure designated to support antennas including, but not limited to, free-standing towers, guyed towers, lattice towers and monopoles.

**Travel Trailer.** A vehicle or portable structure with less than three hundred twenty (320) square feet of floor area built on a chassis and designed as a temporary dwelling for travel, recreation, vacation, and other short-term uses, and which may or may not have sanitary facilities.

**Use.** Any activity, occupation, business or operation carried on or intended to be carried on, in a building or other structure or on a tract of land.

A. **Use, Accessory.** A use located on the same lot with a principal use, and clearly incidental or subordinate to, and customarily in connection with, the principal use.

B. **Use, Principal.** The main use on a lot.

**Vehicle Repair.** Any building or facility designated for the repair of vehicles, regardless of type.

**Vehicle Sales - New.** Premises used primarily for the sale of new vehicles, on which the sale of used vehicles are also permitted.

**Vehicle Sales - Used Only.** Premises used for the sale of used vehicles.

**Vehicle Service Station - With Gas.** Any premises or facility where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of automobiles), are retailed directly to the public on premises, including sale of minor accessories and service for automobiles. A vehicle service station may include a convenience store. The definition does not include the display of motor vehicles for sale and shall not include fuel and service stations predominately designed to service and accommodate buses or vehicles with three or more axles.

**Veterinary Clinic/Animal Hospital.** A facility to diagnose and treat animal disease or disorders or prevent animal diseases or disorders and may include the incidental sheltering of treated animals.

**Warehousing - Commercial.** Any premises used by manufacturer, hauler, logistics companies, wholesalers, retail, or buyers for the receipt and storage of merchandise, products or manufactured goods.

**Warehousing/Self Storage/Mini Storage.** Premises or facility used for storage of personal or professional items where one (1) party rents space in a compartmentalized storage unit in

exchange for a fee charged by the premises or facility owner.

**Winery.** Any business established for the conversion of grapes or other fruits and foods into wine. Such uses may also provide wine tasting, wine sales, and sales of related wine products. A winery may include a restaurant as part of its operations.

**Yard.** Space on the same lot with a structure, extending along a lot line or street line and inward to the principal structure. The size of a required yard shall be measured as the shortest distance between the principal structure and a lot line or street line without consideration of any accessory structures on the lot.

A. **Yard, Front.** A yard between a principal structure and a street line and extending the entire length of the street line. In the case of a lot that fronts on more than one street, only the yards fronting on the street of the property's postal address shall be considered a front yard. There shall be no accessory structures in the front yard of a property in a residential district.

B. **Yard, Rear.** A yard between a principal structure and a rear lot line and extending the entire length of the rear lot line.

C. **Yard, Side.** A yard between a principal structure and a side lot line, extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of irregular shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

### **ARTICLE III ESTABLISHMENT AND DESIGNATION OF DISTRICTS**

#### **Section 300      Establishment of Districts**

**Land Use Districts.** For purposes of this Article, the Town of Sennett is hereby divided into the following land use districts:

A. **Agricultural/Residential (A/R) District.** This district is designed to accommodate persons who wish to reside in a rural area largely dominated by agricultural activity and similar uses. The purpose of this district is to support agricultural operations, allow for low density residential development, preserve open spaces and to conserve the natural environment. Larger lots are required for this district since no public water or sewer service exists or is anticipated. The preservation and promotion of agriculture is the primary public policy objective in this district.

B. **Residential (R) District.** This district is designed to insure safe and healthful residential occupancy and to encourage moderate to higher density residential neighborhoods where water and sewer availability support such density. It will promote preservation of existing residential neighborhoods, encourage development of harmonious new residential neighborhoods in areas that are served by public utilities and afford protection to residences from conflicting uses.

C. **Commercial/Light Industrial (C/LI) District.** This district is designed to allow commerce to flourish in the Town in areas proximate to adequate transportation routes and infrastructure. Since some uses in this district could, if improperly designed, cause harm to adjacent or nearby activities, performance standards and site design criteria are required as

applicable. Generally, allowable industry in this district will be designed to generate minimal volume of employee and truck traffic; create little or no noise, odor, glare, smoke, or dust.

D. **Industrial (I) District.** This district is designed to foster the diversification of the Town's economic base by encouraging industries and manufacturing firms to locate in the Town, and thereby increase the number of locally-based jobs while making a valuable contribution to the Town's tax base. Areas designated for industrial uses include land currently devoted to industrial uses such as manufacturing, warehouses, research and development. However, Heavy Industry, as that term is defined in §504.19, is prohibited in this and all other districts in the Town.

E. **State Routes 5 and 34 Commercial Overlay District (COD).** This Overlay District is created with the general purpose of allowing certain specified commercial uses in such a manner as will allow the concurrent implementation of such uses with the underlying agricultural and residential uses in the area. This Overlay District is generally situated along State Route 5 from the intersection of State Route 5 and County House Road (to the south) to the northern town line on State Route 5 (to the north) and along State Route 34 from the intersection of State Route 34 and County House Road (to the south) and the intersection of State Route 34 and Manrow Road (to the north) and acts as an overlay over certain A/R districts in the town.

F. **Hospitality-Lodging Overlay District (H-L).** This Overlay District is created with the general purposes of promoting agricultural/residential uses, uses related to and complementing the hospitality or lodging industries, uses promoting recreation, and uses related to and complementing the tourist industry. This Overlay District is generally situated on Route 20 from Mandy Rue Lane (to the west) to County Line Road (to the east) and acts as an overlay over certain A/R districts in the town.

**Section 301 Zoning Map.** Said districts are bounded as shown on a map titled "Zoning Map of the Town of Sennett," adopted October 16, 2014, as amended, and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Zoning Law.

**Section 302 Interpretation of District Boundaries.** Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

B. Where district boundaries are indicated as approximately following lot lines, such lines shall be construed to be such boundaries.

C. Where district boundaries are indicated as approximately parallel to the centerlines of streets or highways, street lines, or highway right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance there from as

indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

D. Where district boundaries are included as approximately following a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

**Section 303** Notice of Subdivision. No land is to be offered for sale or transfer of ownership unless it meets the requirements of the “Subdivision Ordinance” adopted by the Town of Sennett on December 1, 1970 as thereafter amended or superseded.

#### **ARTICLE IV PLANNED DEVELOPMENT DISTRICTS**

**Section 400** Purpose. In Planned Development Districts (PDD), land and buildings may be used for any lawful purpose in any districts as authorized by the Town Board in specific instances. The purpose of the PDD is to provide the flexible land use and design regulations through the use of performance criteria and land impact considerations, so that developments incorporating individual building sites, common property, singular land use, and/or mixed land uses may be planned and developed as a unit. Where deemed appropriate, the Town Board may consider a proposed planned development through an approval process requiring a zoning district change from the original district to a PDD, in which the approved plat and a complete set of use and dimensional regulations become the basis for continuing land use controls.

**Section 401** Objectives. In order to carry out the purpose of this article, a PDD shall achieve at least the following objectives:

A. Work as a concentrated whole unit, being self-contained and uncondusive to expansion outside its boundaries at a future date, unless such expansion when added to the original PDD can act with it to create a larger self-contained unit.

B. Provide open spaces as an integral part of the plan.

C. Provide convenient location of commercial and service areas.

D. Preserve trees, outstanding natural topography and geologic features and prevent soil erosion and ground and surface water pollution.

E. Make creative use of land and related physical development, which allows an orderly transition of land from rural to more urban uses.

F. Make efficient use of land resulting in smaller networks of utilities and streets thereby lowering costs for construction, maintenance and housing.

G. Provide a development pattern in harmony with the objectives of the Town’s Comprehensive Plan and Cayuga County comprehensive, master, development and other similar regional plans.

H. Provide a more desirable environment for dwelling, working and/or recreation than would be possible through the strict application of the preset regulations in this Law.

**Section 402** General Requirements.

A. Minimum Area. The minimum area requirement for a PDD shall be ten (10) contiguous acres of land, unseparated by existing streets, highways or other properties.

B. **Ownership.** The tract of land for the project shall be owned or under lease option to purchase by the applicant who may be a single person, corporation, or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

C. **Location.** The PDD shall be applicable to any area of the Town of Sennett where the applicant can demonstrate that the characteristics of the applicant's holdings will meet the objectives of this Article, the Comprehensive Plan and the spirit of this Zoning Law. A proposed location for a PDD must have demonstrated compatibility with the surrounding land uses, neighborhood character, and traffic pattern, capacity and volume.

D. **Public Sewer and Water.** Where a PDD incorporates the public sewer and/or water services, such improvements will be proposed and installed at the sole cost and expense of the developer. If necessary, a district will be formed by the developer.

E. **Permitted Uses.** The use of land and buildings in a PDD may be for any lawful purpose as authorized by the Town Board in accordance with the procedures of this Article; the following general uses, or combinations thereof, may be considered:

1. **Residential Use.** Residences may be of a variety of types, including one-family dwellings, two-family dwellings, multiple family dwellings, condominium units and townhouses, but not including mobile homes. In developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with the objectives of this Article; the applicant shall demonstrate that he or she is reaching as broad an economic market as possible.

2. **Commercial, Service and Other Non-residential Uses in Primarily Residential PDD.** These uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the residential PDD. Consideration shall be given to the project as it exists in its larger setting in determining the appropriateness of such uses. In no case shall more than fifteen percent (15%) of the gross site area be permitted for commercial uses, services, or non-residential uses other than open space and nonprofit recreation.

a. **Intensity of Land Use.** Relatively high land use intensity (exclusive of heavy industry uses) or dwelling unit density may be permitted if it is demonstrated that a generally positive dwelling, working and/or recreational environment is thereby produced. In determining the suitability of land use intensity or dwelling unit density proposed for a PDD, each case shall be considered separately. Due consideration shall be given to applicants that demonstrate appropriate access to water and sewer facilities. Proposed land use intensity ratings and/or dwelling unit densities shall be completely documented by all facts, opinions and judgments used to justify the selection of the intensity rate or unit density. Greater density than normally allowed in the area is intended to promote clustering and maintenance of open space. Modification of density



requirements as contained in the lot size standards of the Dimensional Chart in this Law may impact individual lots within a PDD, but, in no case shall they result in an overall density in excess of that normally allowed in the entire site of the development area based upon the Dimensional Chart.

b. **Common Property.** Common property in a PDD is a parcel or parcels of land together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites. When common property exists (and such may be required), the ownership of such common property may be either public or private; when common property exists in private ownership, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities thereon, including but not limited to private streets, drainage facilities, drives, service and parking areas, open space and recreation areas.

3. **Commercial Uses.** A PDD comprised primarily or entirely of commercial uses may be permitted to allow for planned commercial developments which are intended to encourage the development of land as planned commercial sites; encourage flexible and creative concepts of site planning; accomplish a more desirable environment than would be possible through the strict application of the minimum requirements of conventional commercial zoning districts and to provide a stable environment and use which is compatible with the character of surrounding areas. Any primarily commercial PDD may be designed to allow non-residential uses, including commercial or retail uses, recreational uses, industrial uses, offices, clinics and professional uses (and combinations thereof) but shall, in no event, allow any heavy industry. Residential uses including multiple family dwellings, condominiums, apartments and townhouses of medium to high density, and above-store or above-office flats to provide affordable housing in close proximity to employment centers shall also be permitted, provided that in no case shall more than fifteen percent (15%) of the gross site area be permitted for residential uses or uses other than open space and nonprofit recreation.

**Section 403** **Application Procedures for PDD Approval.** For full approval of a proposed PDD the applicant shall (1) secure a lawful zoning district change for his property from its present district to a PDD, which process shall be that of amending the Zoning Law and Map to include the proposed PDD plan and all the related specifications, and use and dimensional regulations specific thereto; (2) after the zoning district change, it shall be required that the subdivision and platting of all lands on the proposed PDD be subject to Section 504 of this Law; and (3) before construction and occupancy of buildings or land, the proper permit(s) shall be secured by the applicant in accordance with this Law. The Town Board may utilize its powers under the Municipal Home Rule Law or the Town Law to accomplish the change of zoning.

When any PDD is proposed, before any permit for erection of a permanent building in such PDD shall be granted, and before any subdivision plat or any part thereof may be filed in the Cayuga County Clerk's office, the applicant or his or her authorized agent shall apply for and secure approval of such PDD in accordance with the following procedures:

A. **Pre-application Discussion Stage.** Prior to formal application the applicant may present the proposed PDD to the Town Planning Board in rough sketch and written descriptive form to obtain initial opinions concerning the suitability of the concepts and general elements of the development, and to ensure the required procedures for the PDD application are fully

understood by the applicant. In this stage, it is advised that most of the items in Section 403(B) be addressed at least in rough form by the applicant. Conceptual approval at this stage shall not be considered binding in any way.

B. **Application for PDD Zoning.** Application for the establishment of a PDD shall be made to the Town Board in plan (drawn to scale) and written report form. Prior to Town Board action, to insure that the proposed PDD is within the intent of the comprehensive planning activities of the Town, the Town Board shall, immediately after receiving the application, refer it for the purpose of review and recommendations to the Town Planning Board, which shall have sixty-two (62) days from its next regularly scheduled meeting within which to report. As deemed appropriate, either the Town Board or the Town Planning Board may submit the PDD application to the Cayuga County Planning Board for an informal review. As applicable in accordance with Sections 239-l and -m of Article 12-B of the New York State General Municipal Law, the Town Board shall refer the PDD application for formal review and recommendations to the Cayuga County Planning Board which shall have thirty (30) days or an agreed-upon longer period from its next regularly scheduled meeting within which to submit its report. If either planning board does not report to the Town Board within the specified time period, their inaction shall be construed as them having no recommendations.

Acceptability of a PDD proposal shall be based upon the Town Board's judgment concerning the overall quality of the PDD proposal, and the extent of its impact upon the Town and its citizens, and their or other's properties. In order for the Town Board to adequately evaluate the PDD proposal, the application (in its plan and written form) shall address the following areas, and the information shall be furnished therein in a reasonably complete manner.

1. **Project Particulars.** The applicant(s) shall include the name and location of the project; name(s) and address(es) of the owner(s); names and addresses of the applicants (if different) a legal description of all property; the names of the owners of abutting properties and those within 1,500 feet of the property, and the current use of such abutting properties.

2. **Type of Development.** The type of development shall be fully described, including at least the following information.

a. **Residential.** Total acreage of residential area and each residential portion of the development; total number of dwelling units and number in each residential portion; percentage and numbers of dwelling units by type (single family, condominium units, townhouses, etc.); dwelling unit density per gross site acreage; estimated population of the development and estimated number of school-age children.

b. **Commercial.** Total acreage of commercial area; gross leasable floor area in square feet; land use intensity rating; general description of commercial types and their general requirements for receiving and delivering goods.

3. **Staging of Development.** Description on plan and in written report of the planned staging of the project (and such staging may be required).

4. **Natural Site.** A description of the natural site shall be included with at least the following information: soil characteristics and limitations; extent of and treatment intended for the site's vegetative cover (especially trees); topographical features (on topographic map); existing and proposed site drainage; foreseeable needs of the site for construction

precautions; existing conditions of and the projected effects upon the ground and surface waters of the site and community; possible air pollution hazards.

5. **Site Planning and Design Considerations.** Descriptions and illustrations (in the form of a plan or map with key) of the following: proposed uses, site ingress and egress; parking; on-site pedestrian and vehicular circulation; general landscaping treatment; general location and arrangement of buildings and other structures; locations of all facilities; and general visual description.

6. **Transportation and Traffic.** Descriptions of at least the following: existing streets serving the area; the level of service provided by existing streets in terms of traffic count and street traffic capacities; expected modifications for existing street systems required by project; estimated daily automobile trips generated by the residential and other uses; availability of public transportation to site; design considerations for deterring on-site and area congestion.

7. **General Market Information.** Describe the need for the proposed land uses in their proposed locations and their proposed quantities; and the intended market structures for the residential units (prices and rents, describe whether low-income, middle-income, luxury, etc.).

8. **Projected Fiscal Impacts on Town.** Calculations of projected Town revenues and expected costs to be incurred by the Town as a result of the proposed development.

9. **Utilities and Related Services.** Describe the following and detail their intended locations on the plan(s): the method and projected quantities of waste water (sewage) from the development; demand and source of supply for water; level of service needed and available for fire protection; demands for and availability of natural gas and electricity; projected quantities of and method of disposal for solid wastes.

10. **General Effects of Development on Neighborhood and Community Appearance and Land Use.** Description of effects on the appearance; relationship of project to predominant character and land use in area (compatibility).

11. **Relationship of Proposed PDD to Official Town and Cayuga County Development Policies.** Information on how the proposed PDD relates to local and area-wide goals and policies as stated in plans and regulations.

12. **Development, Operation and Maintenance of Open Space and Common Properties.** A general statement concerning the responsibility for development, operation and maintenance of open space and common properties, and proposed methods for their implementation.

13. **Developer Competence.** Evidence in the applicant's behalf to demonstrate his competence to carry out the plan and his awareness of the physical and financial scope of the project.

14. **Other.** Any other such information as the Town Board deems to be reasonably pertinent to the adequate consideration and evaluation of the proposed project.

C. **Public Hearing.** Within sixty-two (62) days after receiving a report from the Town Planning Board and completion of the environmental review process, the Town Board shall schedule and conduct a public hearing for the purpose of considering the change in zoning district to PDD for the applicant's plan in accordance with the procedures required under Section 265 of the New York State Town Law.

D. **Town Board Action.** Within sixty-two (62) days after the close of a public hearing the Town Board shall render its decision on the PDD application. If the Town Board grants the PDD zoning by local law or other permissible means, the Zoning Map shall be so noted, and this Law shall be amended so as to define the legal boundaries of the PDD, but such action shall have effect only of granting permission for development of the specific proposed land uses in accordance with the use and dimensional specifications, plans and related materials filed with the Town Board and related to the specific PDD; such specifications, plans and related materials to include, if deemed necessary by the Town Board to protect the public health, safety and welfare of the Town, any conditions and requirements for the applicant to meet. The approved plan and the related attachments shall be deemed an amendment to this Law and shall serve as continuing land use controls for the specific PDD; the first such zoned PDD shall be designated "PDD-1", with subsequent unrelated PDD to be numbered in continuing sequence.

E. **Annual Review of PDD.** The Town Board shall review the PDD annually in order to determine the amount and quality of the progress made by the developer toward fulfilling the specifications and plans and any attached conditions. Based upon the progress made by the developer, the Town Board may reconsider the PDD and further amend this Law in relation to it if progress is not to the satisfaction of the Town Board or not in keeping with the staging approved by the Town Board. If no progress is made on the site of the PDD within the first year after approval, the Town Board may consider changing the zoning of the property to the original or other zoning district classification. Little or no progress on the PDD site by the developer does not guarantee the Town Board will take action to change the zoning, especially if the developer demonstrates to the satisfaction of the Town Board that the developer is acting in continuing good faith and, where applicable, the preliminary plat plans are in preparation.

F. **Subdivision Plat Approval.** If any portion of a PDD property is intended for sale or other form of transfer, whether immediate or future, the development shall be considered a subdivision of land and shall be subject to the "Subdivision Regulations of the Town of Sennett"; where the requirements and the specifications of the subdivision regulations are in conflict with the PDD plan approved by the Town Board the approved plan shall take precedence.

**Section 404** **Design Standards and Specific Requirements.** The following uses shall be permitted in the Town of Sennett only in accordance with the procedures of this Article; and in addition to the other provisions of this Article, the following requirements shall apply to the specific planned developments:

A. **Mobile Home Park** shall be permitted subject to the following provisions:

1. A mobile home park shall comprise an area of not less than twenty-five (25) acres, and no mobile home, office or service building shall be closer than one hundred (100') feet from any street, road or highway line, nor closer than one hundred (100') feet from any lot line.

2. A mobile home park shall be located on a well-drained site suitable for the

purpose.

3. A mobile home park shall have an internal street system adequate for access to each mobile home lot; all parks shall have access from two (2) points along a street, road or highway, or if bordering on two (2) streets, roads or highways or combinations thereof, access may be one (1) from each; access points shall be separated by at least one hundred (100') feet; the surfaces of all streets in a mobile home park shall be paved.

4. The total number of mobile home lots shall not exceed six (6) per gross acre.

5. Mobile home parks accommodating, or capable of accommodating twenty-five (25) or more mobile homes shall have at least eight percent (8%) of the gross site area set aside as recreation area, playground, open space, greenbelt, or similar amenity to be approved by the Planning Board as to design and location.

6. All utility lines, including water, sewer, electric and telephone, shall be installed underground.

7. A mobile home park shall have buffer strips along the margins of the front, side and rear lot lines, provided that such buffer strips shall not interfere with the vision of motorists at intersections and the access points for the mobile home park, such buffer strips shall be at least six (6') feet in depth and consist of interlocking trees and foliage acceptable to the Town Board and subsequently to the Enforcement Officer.

8. Suitable landscaping, including at least lawns and plantings, shall be installed and maintained in all mobile home parks.

9. A sufficient supply of pure, healthful drinking water approved by the Cayuga County Health Department or such health department having jurisdiction shall be provided in a mobile home park; if the water is from a private source, periodic tests shall be made as requested by the Cayuga County Health Department or other such agency having jurisdiction.

10. Sewage from each mobile home shall be removed into a public sewer system approved by the Cayuga County Health Department or other such agency having jurisdiction, or into a private sewer system with disposal plant or septic tank approved by the same health department.

11. All mobile homes installed in mobile home parks shall be constructed and installed in compliance with the applicable provisions of the New York State Executive Law (Uniform Fire Prevention and Building Code), and this Law.

12. Storage space within a permanent, enclosed structure shall be provided in an amount equal to at least one hundred (100 sq. ft.) square feet for each mobile home in the mobile home park.

13. One (1) metal garbage receptacle with a tight fitting cover shall be provided for each mobile home, and one (1) large metal receptacle for trash shall be provided for every two (2) mobile homes; these receptacles shall be kept in sanitary condition and emptied

weekly by the owner or his agent.

14. Individual mobile home lots in a mobile home park shall have an area of not less than six thousand (6,000 sq. ft.) square feet with a minimum width of sixty (60') feet.

15. No mobile home or portion thereof shall be placed closer than thirty-five (35') feet to any other mobile home or building or portion thereof.

16. The approach area to each entrance of a mobile home or addition thereof shall have the minimum dimensions of four (4') feet by eight (8') feet with construction of concrete, crushed stone, cinderblock, flagstone or equivalent, such to provide for a reasonable dry surface.

17. Each mobile home shall be placed upon a reinforced pad with minimum dimensions of the size of the mobile home.

18. Parking spaces shall be provided at the rate of at least two (2) car spaces for each mobile home plus an additional car space for each four (4) lots.

19. Each mobile home shall be provided with skirting of attractive, fireproof material; the entire base of the mobile home shall be enclosed, and a door panel of at least three (3') feet in width shall be provided in the skirting to permit access.

20. No addition to a mobile home shall be constructed which would increase the living floor space of that mobile home; additions for the purposes of storage space, protection from sun and weather or other similar purpose, including but not limited to awnings, covered patios and carports may be permitted only upon approval of the mobile home park operator and the Code Enforcement Officer.

B. **Townhouse Developments** shall be permitted subject to the following provisions:

1. Rows of attached townhouses shall average no more than eight (8) dwelling units.

2. Each building in which dwelling units are located shall meet the front, rear, and side yard setbacks established for single family dwellings in the A/R District by the Table of Dimensional Standards.

3. Each building in which dwelling units are located shall be placed upon a plot of land that is sufficiently large so that, if subdivided and placed into individual ownership in conjunction with a dwelling unit therein will permit each subdivision to meet the requirements of Subsection 6 of this Section.

4. The development shall not cause more than thirty percent (30%) of the total land area to be built upon.

5. At least two (2) off street parking spaces shall be provided for each dwelling unit having three (3) or fewer bedrooms, and at least three (3) off street parking spaces for each dwelling unit having more than three (3) bedrooms. Spaces may include garage spaces.

6. If subdivided in order to permit individual ownership of dwelling units in conjunction with a portion of the parcel upon which the building is located, each lot so created shall meet the following minimum standards.

a. total lot area = twice the habitable floor area of the dwelling unit

- b. side yard setback = end units, twenty-five (25') feet  
= center units, zero (0') feet
- c. front yard setback = when dwelling units in the building share common rear interior walls, seventy (70') feet  
= when dwelling units in the building have front and rear yards, thirty-five (35') feet
- d. rear yard setback = when dwelling units in the building share common rear interior walls, zero (0') feet  
= when dwelling units in the building have front and rear yards, thirty-five (35') feet

C. **Certain Residential Subdivisions.** The Planning Board, in conducting the review required under the Subdivision Regulations of the Town of Sennett, may conclude that a subdivision would be better able to meet the planning objectives of the Town by compliance with the standards applicable to a PDD and require the proposed subdivision to be submitted as a PDD.

Such a requirement will usually result when the proposal includes productive agricultural land, sensitive environmental areas, or is proximate to potentially conflicting uses. In such cases the proposal submitted as a PDD shall include measures to preserve productive agriculture, protect sensitive environmental features, or minimize land use conflicts as well as address all requirements of Section 403.

## ARTICLE V USE REGULATIONS

**Section 500** **Applicability of Regulations.** Except as provided by law or in this Law, in each district no building, structure, or land shall be used or occupied except for the purposes permitted in Section 504 and for the zoning districts so indicated.

**Section 501** **Uses by Right, Special Permit, & Uses Not Permitted.**

A. A use listed in Section 504 is permitted by right in any district denoted by the letter “P” after a zoning permit has been issued in accordance with Article XIV.

B. A use listed in Section 504 may be permitted by Special Use Permit in any district denoted by the letters “SP” provided the ZBA authorizes the issuance of a zoning permit by the Code Enforcement Officer, subject to the requirements of Section 1509 and the other requirements of this Law.

C. A use not otherwise expressly permitted or specially permitted in any district is not allowed and must apply for a use variance and such other approvals as are necessary.

**Section 502** **Uses Are Subject to Other Regulations.** Uses permitted by right or by special use permit shall be subject in addition to the use regulations, to such regulations of yard, lot size, lot width, building area, provisions for off-street parking and loading, and to such other provisions as are specified in other Articles hereof.

**Section 503** **Prohibited Uses.** Any use not expressly stated and permitted in Section 504 is prohibited.

**Section 504 Table of Use Regulations**

Town of Sennett - Uses	R	A/R	C/LI	I	COD Overlay	H-L Overlay
P = Permitted						
SP = Special Use Permit (ZBA)						
Blank = Not Permitted						
Administrative & Management Services			P			
Adult Day Care			P		P	
Adult Use				SP		
Animal Day Care/Shelter/Kennel		SP	SP		SP	SP
Asphalt & Concrete Mixing Plants				SP		
Assembly/Fabrication/Packaging			P	P	SP	
Bed & Breakfast	SP	SP	SP		SP	SP
Boarding House/Rooming House		SP	SP		SP	P
Bookstore			P		P	P
Café/Internet Café/Coffee Bar - Outdoor Seating Approved			P		P	P
Car Wash			P	P	P	
Care Facility/Residence or Shelter		SP	P		P	P
Carnival/Circus/Festival/Show/Exhibition		SP	SP		SP	SP
Cemetery/Crypt		SP				SP
Child Care Center		SP	P		SP	SP
Child Care, In-Home	P	P	P	P	P	P
Clinic/Rehab/Therapy-Outpatient		SP	P		P	SP
Community Center/Recreation Center		SP	P	P	SP	
Concrete – Precast			SP	P	SP	
Construction Services		SP	P	P	SP	
Construction Services, Home-Based	P	P	P	P	P	P
Convenience Store w/Gas Pumps or w/out Gas Pumps		SP	SP	SP	SP	SP
Crematorium				SP		
Diner - Eat Inside			P	P	P	P
Dog Grooming Facility-Mixed Use	SP	P	P	P	P	P
Dwelling - Single Family	P	P			P	P
Dwelling - Two-Family	P	P			P	P
Dwelling - Multi Family	SP	SP	SP		SP	P
Dwelling, Townhouse	SP	SP			SP	P
Dwelling, In-Law Apartment	P	P	P	P	P	P
Educational Facility	SP	SP	SP	SP	SP	SP
Emergency Services Facility		SP	SP	SP	SP	SP
Farm/Dwelling For Farm Workers		P	P		P	P
Farm Stand for Sale of Produce		P	P		P	P
Financial Institutions/Banks			P		SP	
Funeral Home/Mortuary			SP		SP	
Golf Course/Regulation	SP	P	SP	SP	SP	P
Government Facility/Town, County, State, Federal	P	P	P	P	P	P
Grain Elevator		P		P	P	P



Town of Sennett - Uses	R	A/R	C/LI	I	COD Overlay	H-L Overlay
P = Permitted						
SP = Special Use Permit (ZBA)						
Blank = Not Permitted						
Greenhouse/Nursery - Commercial		P	P	P	P	P
Hatchery - Fish		SP				
Home Occupation	P	P			P	P
Junkyard				SP		
Landscape/Garden Center		P	P		P	P
Laundromat/Dry Cleaning			P	P	SP	
Library/Museum		SP	SP		SP	SP
Light Industrial		SP	SP	SP	SP	
Light Manufacturing		SP	SP	SP	SP	
Lumber Yard		SP	P	P	SP	
Manufacturing			SP	P	SP	
Meatpacking Plant/Slaughterhouse				SP		
Mixed Use Commercial & Residential			SP	SP	SP	SP
Mobile Home/Mobile Home Park						
					<i>Allowed only by Town Board approval of PDD pursuant to Article IV</i>	
Monument Works			P	P	P	
Motel/Hotel			P	P	SP	P
Office - Professional/Studio		P	P	P	P	P
Office Building		P	P	P	SP	SP
Parking Garage			P	P	SP	
Parking Lot (Primary Use)			P	P	SP	SP
Personal Service - Barber Shop/Beauty Salon/Nail Salon/Tanning			P		P	P
Petroleum Bulk Storage				SP		
Printing & Publishing			P	P	SP	
Quarry Operation/Sand & Gravel Operation		SP	SP	SP	SP	SP
Recreation & Entertainment Facility – Indoor – Mixed Use		SP	P	P	SP	SP
Recreation & Entertainment Facility - Outdoor Including Campground		SP	SP		SP	SP
Recreation/Golf Course - Mini Golf		P	P		P	SP
Recycle Center - Scrap Metal/Shredding				SP		
Recycle Center - Cans & Bottles			P	P	SP	
Religious Use	P	P	P	P	P	P
Residential Accessory Use - Garage/Shed/Private Greenhouse	P	P			P	P
Reservoir/Public Water	SP	SP	SP	SP	SP	SP
Restaurant - Drive-thru		SP	SP	SP	SP	SP
Restaurant - Sit Down		SP	P	P	P	P
Retail Store			P	P	SP	SP
Rod & Gun Club		SP			SP	SP
Saw Mill		P	P	P	SP	SP
Seasonal Sales		P	P		P	P

Town of Sennett - Uses	R	A/R	C/LI	I	COD Overlay	H-L Overlay
P = Permitted						
SP = Special Use Permit (ZBA)						
Blank = Not Permitted						
Shopping Center			SP	SP	SP	SP
Sod Farm		P			P	
Stable - Private		P	P		SP	P
Stable - Public		P	P		P	P
Tattoo Parlor/Piercing			P	P	SP	
Terminal - Motor or Rail		SP	SP	SP	SP	
Theater - Indoor			P	P	SP	
Theater - Outdoor/Performing Arts		SP	SP		SP	SP
Towers & Communication Antennas	SP	SP	SP	SP	SP	SP
Vehicle Repair		SP	P	P	SP	
Vehicle Sales - New			P	P	SP	
Vehicle Sales - Used Only			P	P	SP	
Vehicle Service Station w/Gas			SP	SP	SP	
Veterinary Clinic/Animal Hospital		P	SP		SP	SP
Warehousing - Commercial			P	P	SP	
Warehousing/Self-Storage/Mini-Storage		SP	P	P	SP	SP
Wind Energy Conversion System, On-Site	SP	SP	SP	SP	SP	SP
Winery		SP	SP	SP	SP	SP

Those uses requiring a special use permit from the ZBA shall also require the granting of site plan approval from the Town Planning Board unless otherwise noted. All new non-residential uses and modifications to existing non-residential uses shall be subject to site plan review by the Town Planning Board unless otherwise specifically exempted.

**SPECIAL CONDITIONS REFERENCED IN SECTION 504,**  
**TABLE OF USE REGULATIONS**

Special conditions have been established to insure that certain activities which may be incongruous or sufficiently different from those generally permitted in a given district are carried out in a manner that minimizes or prevents negative impacts on the overall area or the environment. No zoning permit shall be issued until the enforcement officer is satisfied that the applicable special condition(s) has (have) been met or a variance to same duly granted.

**ADDITIONAL CRITERIA FOR CERTAIN SPECIFIED USES**

**Section 504.1 Farm Stand for Sale of Produce.** Farm stands for sale of produce are permitted in the A/R, C/LI, COD, and H-L districts.<sup>1</sup>

**Section 504.2 Veterinary Clinic/Animal Hospital.** When located in the A/R district, any veterinary clinic/animal hospital shall be permitted only upon a parcel of at least three (3) acres and no activity or structure shall occur or be placed within one hundred (100') feet of the lot line used for residential purposes.

**Section 504.3 Factory Manufactured Housing Requirements.** Factory manufactured homes are permitted subject to the regulations applicable to dwellings in general.

**Section 504.4 Multiple Family Dwelling.**

A. For any multiple family dwelling, the lot size shall be at least five thousand five hundred (5,500 sq. ft.) square feet per dwelling unit. In no event shall any multiple family dwelling exceed eight (8) dwelling units.

B. The minimum front yard setback for multiple family dwellings shall be sixty-five (65') feet.

C. The minimum side yard setback for multiple family dwellings shall be seventy-five (75') feet.

D. The minimum rear yard setback for multiple family dwellings shall be seventy-five (75') feet.

E. If a multiple family dwelling is proposed as part of a PDD, the dwelling shall be subject to the regulations of Article IV which shall take precedent over this section.

**Section 504.5 Institutions Including Places of Worship, Religious Institutions, Public and Private Schools, Libraries, and Museums Permitted Subject to the Following:**

A. Minimum lot size shall be three (3) acres.

B. Maximum height shall be fifty (50') feet.

C. All buildings shall be not less than one hundred (100') feet from any lot line or street line.

**Section 504.6 Community Center, Recreation Center.** Community centers and

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<sup>1</sup> Subject to the applicable provisions of Article 25-AAA of the New York Agriculture and Markets Law.

recreation centers are permitted in the CL/I and I districts, and specially permitted in the COD and A/R districts, subject to the dimensional criteria set forth in this Law; except when such a facility is part of a residential PDD in which case the regulations of Article IV (PDD) shall govern.

**Section 504.7 Home Occupation as an Accessory Use to a Dwelling.**

A. Home occupations are permitted as of right in the R, A/R, COD and H-L districts subject to the following criteria.

B. The home occupation shall be carried on wholly indoors and within the principal building, however, an in-home family day care facility may utilize the accessory yard to the home as part of a home occupation.

C. There shall be no use of show windows or display or advertising visible outside the premises to attract customers or clients other than a home occupation announcement sign as permitted.

D. There shall be no exterior storage of any materials associated with the home occupation.

E. Members of the immediate family residing in the dwelling unit may carry on the home occupation plus non-related employees, so long as the total number of hours of such non-related employees does not exceed forty (40) hours in the aggregate.

F. The floor area devoted to a home occupation shall not be more than twenty-five percent (25%) of the ground floor area of the principal residential structure or five hundred (500) square feet, whichever is less.

G. By way of example, a home occupation may consist of: art studio; professional office of a physician, dentist, lawyer, engineer, architect, writer, or accountant; beauty parlor or barber shop; the repair of appliances or other small items; the teaching of not more than four (4) pupils simultaneously, and in-home child care.

H. Among the uses that shall not be interpreted to be home occupations are, as a matter of example only, the following: animal hospitals, commercial stables and kennels, and restaurants.

**Section 504.8 Attached and Unattached Accessory Buildings and Accessory Uses.**

A. Accessory buildings not attached to a principal building are permitted in accordance with the following:

1. Such building shall not be located in a front yard in the R district;
2. Such building shall be located no closer to the side or rear lot line than five (5') feet;
3. No such unattached accessory building shall be located less than ten (10') feet from the principal building;

4. No accessory building shall exceed seven hundred fifty (750 sq. ft.) square feet in floor area nor have a height greater than that of the principal building when the accessory building is to be located in the R district. No accessory building shall be a building, structure, or other assemblage of materials designed for, or customarily used as a principal building allowed under this Law. No accessory building on a residential lot shall be a container primarily intended for commercial storage or transportation of goods, animals, or people unless otherwise authorized by this Law.

B. Accessory buildings attached to a principal building shall comply with all provisions of this Law applicable to the principal building.

C. An accessory use shall comply with all provisions of this Law regarding parking and signage, and shall be conducted in a manner that is consistent with and secondary to the principal use and the general character of the district in which it is located. This requirement shall specifically apply to the generation, production, or emission of dust, smoke, refuse, odor, gases, fumes, noise, vibration, and light; but may apply to other similar generations, productions, or emissions.

D. In determining consistency of impacts, standard measurements shall be taken of the ambient level of emission, production, or generation within two thousand (2000') feet of the source in question and compared with the standard measurement at the source, the source will be deemed inconsistent with general character if it exceeds the ambient level. Standard measurements of any particular emission, generation, or production shall be determined by the Town Engineer based upon recognized engineering practices.

**Section 504.9 Swimming Pools and Ponds.**

A. Every outdoor, in ground swimming pool shall be completely enclosed by a fence or wall not less than four (4') feet in height, except for a self latching gate which shall be locked when the pool is not in use.

B. Within the R district, ponds used for swimming and/or decorative purposes shall also be completely enclosed in the manner set forth above for in ground pools.

C. Swimming pools and ponds shall be considered accessory buildings and should have a setback from all neighboring lot lines of a minimum of ten (10') feet.

**Section 504.10 Fences and Walls.** Fences and walls are permitted and are allowed to be placed on the lot line, but in no case shall they exceed four (4') feet in height in front yards, and shall not exceed six (6') feet in height in side and rear yards.

**Section 504.11 Bed and Breakfast and Boarding House.** A Bed and Breakfast or boarding house, when permitted, shall be subject to the following additional requirements:

A. The owner shall live on the premises of the Bed and Breakfast and Boarding House.

B. No alteration to the exterior of any principal or accessory building shall be made which changes the character or appearance of the residential premises.

C. One attached or detached sign of not more than four (4) square feet in area shall be permitted, subject to the regulations of this Law.

**Section 504.12 Vehicle Service Station.** Gasoline service stations (vehicle service stations) are permitted in accordance with all applicable regulations of this Law and the following:

A. All activities except those required to be performed at the fuel pumps shall occur within a completely enclosed building.

B. Fuel pumps may be located in a front yard, but, no nearer the street line than sixty (60) feet.

**Section 504.13 Mobile Home Park.** A mobile home park is permitted only as a residential PDD and subject to the PDD regulations set forth in Article IV of this Law.

**Section 504.14 Junkyard.** Subject to State Law, junkyards are permitted only in the I district, and only upon issuance of a special permit and further subject to all regulations governing industrial uses and upon a parcel fully enclosed by a sturdy fence completely blocking the junkyard operation from view from any neighboring parcel, street, roadway or highway.

A junkyard includes any of the following:

A. **Junkyard General.**

1. Any land or structure, or combination of land and structure, used for the storage, baling, packing, sorting, handling, disassembling, purchase or sale of any material or materials which are used, salvaged, scrapped or reclaimed, but are capable of being reused in some form; including, but not limited to, metals; waste paper; rags; fibers; rubber; bottles; machinery which is not self-propelled; tools; appliances; tires; motor vehicle parts which, taken together, equal in bulk fewer than two (2) such vehicles.

2. Any land upon which are located two (2) or more household appliances, such as refrigerators, stoves, etc., which are not stored within a fully enclosed building, shall be deemed to constitute a junkyard.

3. Items which derive their value through recognition as antiques shall not be considered, used, salvaged or scrapped, provided such items are kept within a fully enclosed building.

B. **Automotive Junkyard.**

1. A junkyard whose principal purpose is to recycle or process junked motor vehicles and/or self-propelled farm machinery. This shall include any place of storage or deposit, for any purpose, of used parts or waste materials from motor vehicles, marine craft, recreation and off-road vehicles and/or self-propelled farm machinery which, taken together, equal in bulk two (2) or more such vehicles or machines.

2. Any land upon which are located two (2) or more inoperative vehicles, or vehicles which have been unregistered for a period of twelve (12) months, and which are not stored within a fully enclosed building, shall be deemed to constitute an automotive junkyard.

3. Antique or classic automobiles shall not be considered inoperative motor vehicles, provided that such automobiles are kept within a fully enclosed building.

C. **Buffers for All Junkyards.** No portion of any junkyard operation may be operated within one hundred (100') feet of any other parcels.

**Section 504.15 Emergency Occupancy.** Emergency occupancy structures are permitted in all districts subject to the following:

In the event that a dwelling is rendered uninhabitable by fire, flood, or similar natural or manmade disaster the Town's Code Enforcement Officer may authorize the placement upon the lot where said dwelling is located an emergency occupancy structure. An emergency occupancy structure shall be a safe and healthful living unit that meets all applicable building, fire, health or other codes except the terms of this Law relating to residential structures. The Code Enforcement Officer may waive such terms of this Law so as to allow the placement and use of such a structure, upon the same lot as the damaged dwelling, as an occupancy during the period that the damaged dwelling is being repaired or replaced. Such emergency occupancy structure shall be removed upon the completion of the repair or replacement work on the principal dwelling. No certificate of occupancy shall be issued until the emergency occupancy structure is removed from the lot. The Town Code Officer shall review for any extension after a one (1) year period from original date of placement.

**Section 504.16 Farm Worker Dwelling.** Farm worker dwellings are permitted in the A/R and C/LI districts and permitted in the COD and & H-L districts subject to the following:

Subject to the applicable provisions of NYS Agriculture and Markets Law, a dwelling that meets all the terms of this Law and other State, County, and local codes may be placed upon a working farm for the purpose of providing housing for persons working upon said farm provided that an area of land sufficiently large and so situated that, if broken off of the farm, it would constitute a legal lot if dedicated to the dwelling to be used by said farm worker. All normally required permits shall be obtained for the dwelling and, as part of the application for a building permit, the land dedicated to it shall be illustrated.

**Section 504.17 Campground, Outdoor Recreation Facility.** Campgrounds and outdoor recreation and entertainment facilities are permitted in the A/R, C/LI, COD and H-L districts upon a site of at least ten (10) acres and subject to site plan review regulations enumerated in Article VI, and upon issuance of a special use permit, if required.

**Section 504.18 Construction Services, Home-Based.** In districts allowing Home-Based Construction Services, the use shall demonstrate compatibility with the surrounding neighborhood. No signage for such service shall be allowed and no outdoor storage of equipment shall occur on premises. However, one trade vehicle may be maintained on the premises but no outdoor idling of such vehicle shall occur.

**Section 504.19 Heavy Industry, Mining and Excavations.**

A. **Purpose.**

It is hereby declared to be the policy of the Town of Sennett to site, regulate and control the use of land utilized for mining purposes, to the extent allowed under Title 27 of the New York State Environmental Conservation Law and to promote the following legitimate public and Town purposes:

1. Protect the health, safety and general welfare of the residents of the Town of Sennett.
2. Establish predictability in the siting and regulation of mining activities.

3. Avoid potential damage to adjacent properties from a mining facility by imposing mining standard and setback requirements.

4. Ensure harmony and compatibility with surrounding land use patterns.

**B. Applicability and Thresholds.**

This Section 504.19 shall apply to mining and excavation in excess of one hundred cubic yards (100 yd to the 3rd) in a consecutive twelve (12) month period from any parcel located within the Town of Sennett. Pursuant to the requirements of New York State Law (New York State Mined Land Reclamation Law), as subject to its amendment, a permit is required by the New York State Department of Environmental Conservation for mining activities for operations with extraction volumes equal to or greater than one thousand (1,000) tons or seven hundred fifty cubic yards (750 yd to the 3rd) of materials within twelve (12) consecutive calendar months. The regulations contained in this Section shall be interpreted to supplement New York State Department of Environmental Conservation mining regulations where permissible and to regulate mining and excavation uses not otherwise regulated by the New York State Department of Environmental Conservation. This Section shall not be interpreted to permit or allow Heavy Industry as that term is defined herein.

**C. Application and Review.** Subject to the applicability and thresholds set forth in Subparagraph B above, all applications for the use of land in the Town of Sennett for the purpose of quarry operations, sand and gravel operations, mining, or excavation operations will comply with the standards set forth in Article VI (Site Plan Review Standards) of the Zoning Law of the Town of Sennett.

**D. Definitions.** As used in this Section, the following terms shall have the meanings thereafter designated:

1. ***Excavation.*** The permanent removal of sand, gravel, stone, ore, earth (including topsoil), or other minerals from the ground. “Excavation” shall also include the movement of earth to change grades or contours where an area of more than one-half (1/2) acre of ground surface is disturbed and where the depth of the cut or embankment exceeds two (2’) feet at any point.

2. ***Heavy Industry.*** Any use or activity which generates significant volumes of smoke, odors, noise, or other polluting wastes and is not compatible with other uses in the district. Examples of “heavy industry” which are intended to be included in this definition are: chemical manufacturing; natural gas exploration, extraction, or processing (as further defined herein); natural gas compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; biofuel facilities; and steel manufacturing. For the purposes of this provision of this Law, and solely for the ease of drafting and reading, all those uses and activities shall be referred to collectively as “gas, oil and coal extraction.”

It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of “heavy industry” are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops; wineries and breweries;



warehouses; equipment repair and maintenance facilities; helipads; parking lots and parking garages; light manufacturing or light industrial facilities (as defined elsewhere in this law); agriculture; quarry operations; sand and gravel operations and petroleum bulk storage. It is expressly stated that the foregoing examples are not intended to be exhaustive shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

3. ***Mining.*** The use of any land or other premises for the extraction of ores or stone from the earth, whether by subterranean or surface digging or other process.

4. ***Natural Gas Exploration, Extraction, or Processing.*** The exploration for natural gas, the extraction of natural gas from the ground regardless of the extraction method used, and/or the processing of natural gas. This definition shall specifically include, but not be limited to, the extraction method commonly known as hydraulic fracturing or hydrofracking. This definition shall also be construed to encompass and include any activity or use of land which facilitates or supports natural gas exploration, extraction, or processing. Examples of activities or uses of land expressly intended to be included in this definition are set forth below:

- a. Drilling and/or installation of a new gas well, regardless of well type;
- b. Development of a well operations site and associated structures and infrastructure;
- c. Mixing, storage, treatment, and/or disposal of chemicals, wastewater, propellant or other materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- d. Parking, standing and/or storage of any type of vehicle, equipment, and/or materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- e. Installation and/or use of pipes, conduits or other material transport or gathering equipment or systems used for, or in connection in any way with, the exploration for or extraction of natural gas;

It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

5. ***Quarry Operation.*** The use of any land or other premises for the extraction of, cutting of, crushing, screening, washing or processing of stone or stone-like material.

6. ***Sand or Gravel Operation.*** The use of any land or other premises for the excavation or removal of sand or gravel therefrom or for the crushing, screening, or washing or processing of sand or gravel in any manner thereon.

E. **Conditions of Operation.** In addition to the application for the use of land in the Town of Sennett for the purpose of mining, excavation, quarry operations and sand and gravel operations complying with Article VI of this Zoning Law of the Town of Sennett, the following conditions will be met:

1. Evidence must be submitted that the land proposed to be used in the manner of any of the extraction methods defined above contains sufficient material being extracted to justify the application to use this land for an extractive industry.

2. Evidence must be submitted that the site is served by an adequate highway transportation network suitable to the carrying of unique traffic to be generated by the proposed operation.

3. At no time shall any quarry operations and sand and gravel operations permitted herein be conducted any nearer to any lot line or any street line than one hundred (100') feet or within five hundred (500') feet of any occupied structure.

4. Access roads at all points, including but not limited to the main entrance and exit, shall be at least two hundred (200') feet from any existing residence or public building.

5. A barrier consisting of wire fencing known as "chain link" at the height of eight (8) feet shall be erected and maintained with no opening except necessary gates for ingress and egress around the extractive operation to prevent public access to the area of any operation permitted in this Section of the Zoning Law of the Town of Sennett. All gates shall be closed and locked at all times except during working hours of such operations or when employees shall be within.

6. Hours of operation will be 7:00 A.M. to 4:00 P.M, Monday through Friday. There will be no operating on Saturdays or Sundays or on any Public Holiday (as that term is defined by New York State General Construction Law § 24).

7. A dust-preventive layer shall be spread on traveled roadways at all operations where required to protect the public and the countryside against windblown sand and dust.

8. All materials used as fill shall be free from garbage, refuse, or other unwholesome matter unless specifically approved by the Town Planning Board.

F. **Inactivity and Grandfathering.** Any area that has been used for an extractive purpose in the Town of Sennett but has not sold its product commercially for a period of one (1) year prior to the date of passage of this law will be considered inactive and will be required to apply for the right to operate under the terms of this Zoning Law of the Town of Sennett. Any extractive industry operating legally on the date of the passage of this Zoning Law of the Town of Sennett will be "grandfathered" in under the rules of the previous Sennett Zoning Ordinance.

G. **Heavy Industry Prohibited.** Heavy Industry uses shall be prohibited in the Town of Sennett beginning on the effective date of this Zoning Law of the Town of Sennett. Any leases of property for the purpose of allowing gas, oil or coal extraction, or any gas, oil or coal extraction operations which are being presently conducted on land in the Town as of the effective date of this Zoning Law of the Town of Sennett, shall be subject to the following:

1. **Existing Leases.** Where a lease which allows gas, oil or coal extraction has been executed and where no substantive gas, oil or coal extraction activity has substantively commenced as of the effective date of this Zoning Law of the Town of Sennett, then this Zoning Law of the Town of Sennett shall apply in full effect and shall operate to prohibit all such activities. The existence of a lease under the circumstances described in this paragraph shall convey no vested right upon either party to the lease.

2. **Existing Gas, Oil and Coal Extraction Operations.**

a. Where a lease which allows gas, oil, or coal extraction has been executed, and where substantive gas, oil or coal mining extraction activity is occurring as of the effective date of this Zoning Law of the Town of Sennett, and those activities are being conducted pursuant to valid permits issued by the New York State Department of Environmental Conservation or other regulating agencies, the activity shall be considered a non-conforming use and shall be allowed to continue.

b. Upon the depletion of any gas or oil well or coal mine which is allowed to remain in operation pursuant to this provision, or upon any other termination of the gas, oil or coal extraction activity for a period of more than one (1) year, the non-conforming use status of that activity shall terminate and the activity may not be renewed.

c. Further, no gas, oil or coal extraction activity allowed to remain in operation pursuant to this provision shall be permitted to expand after the effective date of this Zoning Law of the Town of Sennett.

**Section 504.20 Adult Uses.**

A. **Purpose/Findings.**

1. The Town Board recognizes that buildings and establishments operated as adult uses have serious objectionable characteristics which require special supervision from public safety agencies in order to promote the health, safety and general welfare of the residents of the Town of Sennett.

2. The Town Board finds the objectionable characteristics of adult uses and the adverse affects of such uses increase when such uses are spread throughout the community.

3. The Town Board finds that, based upon common knowledge and experience and studies conducted by other municipalities (including but not limited to Syracuse, New York; Kansas City, Missouri; Bergen, New York; Scotia, New York; Dryden, New York; and Ellicottville, New York), the adult uses sought to be regulated herein have been associated with criminal and other socially undesirable behavior, such as disorderly conduct, prostitution, pornography, drug trafficking and substance abuse, which have the resulting effects of depressing property values in the surrounding neighborhood and increasing the burden upon law enforcement personnel and municipal expenditures.

4. The location of adult uses in regard to areas where youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town.

5. It is not the intent of this Section to suppress any free speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult entertainment and sexually orientated businesses and which is necessary to protect the health, safety, and welfare of the citizens of the Town of Sennett, and surrounding cities and towns.

6. Special regulation of adult uses is necessary to ensure that deleterious secondary effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses.

7. The Town Board desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizens of the Town; protect such citizens from increased crime; preserve the quality of life of citizens and businesses in the Town; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

**B. Permitted District.**

1. Adult uses are permitted only in I districts, and only upon issuance of a special permit (and site plan approval). All adult uses shall comply with the applicable provisions of this Law, including those relating to structures and uses permitted in an I district.

2. In addition, no person shall construct, establish, operate or maintain, or be issued a certificate of occupancy for any adult use within the Town unless such use meets the following standards:

a. No more than one (1) adult use shall be allowed or permitted in any one (1) lot. No mixed uses involving an adult use shall be allowed.

b. No adult uses shall be allowed or permitted on a lot that is closer than one-thousand (1,000') feet to:

(1) A lot which has another adult use.

(2) Any property that is used, in whole or part, for residential purposes.

(3) Any church or other regular place of worship, community center, funeral home, library, school, nursery school, day-care center, hospital, public park, playground, recreational area or field.

(4) Any structure used by the public for public gatherings.

(5) Any motels or hotels.

c. Where there is a conflict between the regulations as provided in this Section and any other law, rule or regulation of the Town including this Law, the most restrictive law, rule or regulation shall apply.

d. All distances set forth herein shall be measured from lot line to lot line. Any relief from the distance buffer referenced under this section shall require the issuance of a use variance.

e. No adult use shall be conducted in any manner that permits the observation of any material depicting or relating to specified anatomical areas or specified sexual activities from any public or private way, parking area or adjacent properties. This provision shall apply to any display, signage, show window or opening

**Section 504.21 Dwelling, In-Law Apartment.** In-law apartment dwellings are permitted in all districts subject to the following:

A. In-law apartment dwellings shall be subordinate in area to the principal unit. The in-law apartment dwelling shall contain a maximum of fifteen hundred (1500) square feet, but in no event shall an in-law apartment dwelling exceed fifty percent (50%) of the existing principal unit.

B. A maximum of one in-law apartment dwelling shall be allowed on any one lot and shall be attached to the principal dwelling.

C. No in-law apartment dwellings shall contain more than two (2) bedrooms.

D. All in-law apartment dwellings shall be designed such that the appearance of the building remains that of a single family dwelling.

E. In-law apartment dwellings shall utilize common water, septic and electric facilities with the primary residence.

F. All in-law apartment dwellings shall comply in all other respects with the provisions of local, state and federal laws, ordinances, rules and regulations, specifically including the New York State Uniform Fire Prevention and Building Code.

**Section 504.22 Animal Day Care, Kennels or Shelters.** An Animal Day Care, Kennel or Shelter is permitted, upon issuance of a special permit, in the A/R, C/LI, COD and H-L districts subject to the following requirements:

A. An animal day care, kennel, or shelter (except for outside runs) shall be completely enclosed and shall be no closer than one hundred (100') feet to any lot line or residential district boundary as measured from the nearest lot lines.

B. Fenced areas used in association with such use may not be permitted within fifty (50') feet of any side or rear lot line and shall be prohibited in a front yard.

C. An acceptable waste storage and removal program must be submitted and approved.

D. Such other materials the reviewing board deems necessary upon which to determine the impact of such specially permitted use must be submitted.

E. Notwithstanding the above, personal ownership of dogs on private premises for private enjoyment and non-commercial purposes shall be allowed when said dogs do not exceed four (4) dogs per 1 acre subject to licensing and vaccination requirements.

**Section 504.23 Stables.**

A. Stables shall be subject to the following additional general requirements:

1. No odor- or dust-producing use, including the storage of manure, shall take place within one hundred fifty (150') feet of the nearest lot line.

2. No horses shall be kept in a structure that is closer to the nearest lot line than fifty (50') feet.

3. Fencing of four (4') feet in height shall enclose a paddock and be no closer than eight (8') feet to a lot line.

4. The criteria set forth in this section shall apply equally to horses and donkeys.

B. Additional conditions for private stables.

1. No retail or commercial activity shall take place, including a riding academy.

2. All horses boarded on the lot must be owned by the family living on the lot.

3. Private stables shall be considered a residential accessory use.

4. The lot must contain a minimum of three (3) acres of usable pasture land for up to two (2) horses plus one and one-half (1.5) acres of usable pasture land for each additional horse up to a maximum of six (6) horses.

C. Additional conditions for public stables.

The lot must contain a minimum of three (3) acres of usable pasture land for up to two (2) horses plus one and one-half (1.5) acres of usable pasture land for each additional horse.

## **ARTICLE VI** **SITE PLAN REVIEW STANDARDS**

**Section 600**      **Site Plan Review.** In addition to uses where the Zoning Law of the Town of Sennett specifically requires site plan review, the Planning Board shall review and must approve (prior to use) all site plans for nonresidential uses, public and semipublic buildings and multifamily dwelling units, whether or not such development includes a subdivision or re-subdivision of a site. Site plan review shall be required for all nonresidential uses where there is a change of use, change to the exterior of the building, (other than ordinary maintenance and repair) addition of impermeable surface, changes to parking or traffic flow on the site, changes in lighting or changes to signage. The construction of a residential single or two-family dwelling and farm buildings shall not be covered by this section.

A.      **Sketch Plan.** A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

1.      A narrative statement of the proposed use and a rough sketch showing the locations and dimensions of principal and accessory buildings, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;

2.      A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features; and

3. A topographic or contour map of adequate scale and detail to show site topography.

B. **Application for Site Plan Approval.** An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

Site plan checklist:

1. Title of drawing, including name, phone number, email address and physical address of applicant and person responsible for preparation of such drawing;
2. location of subject property with tax map parcel number;
3. north arrow, scale and date;
4. boundaries of the property plotted to scale;
5. existing watercourses;
6. grading and drainage plan, showing existing and proposed contours;
7. location, design, type of construction, proposed uses and exterior dimensions of all buildings;
8. location, design and type of construction of all parking and truck loading areas, showing access and egress;
9. provision for pedestrian access;
10. location of outdoor storage, if any;
11. location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
12. description of the method of sewage disposal and location, design and construction materials of such facilities;
13. description of the method of securing public water and location, design and construction materials of such facilities;
14. location of fire and other emergency zones, including the location of fire hydrants;
15. location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
16. location, sizes and designs and types of construction of all proposed signs;
17. location and proposed development of all buffer areas, including existing vegetative cover;
18. location and design of outdoor lighting facilities;
19. identification of the location and amount of building area proposed for retail sales or similar commercial activity;

20. general landscaping plan and planting schedule;
21. an estimated project construction schedule;
22. record of application for and approval status of all necessary permits from state and county officials;
23. identification of any state or county permits required for the project's execution;
24. other elements integral to the proposed development as considered necessary by the Planning Board; and
25. Long or Short Environmental Assessment Form, as applicable.

The Town of Sennett Planning Board shall have the right to waive any submission requirements of this section where it deems appropriate.

C. **Review of Site Plan.** The Planning Board may approve an application for site plan review only upon findings that the proposed site plan would be in harmony with the purposes of this Article and further that the application as approved adequately meets the objectives set forth in this Law. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to the following general considerations:

1. **General Design Objectives.**

- a. The location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- b. The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- c. The location, arrangement, appearance and sufficiency of off-street parking and loading.
- d. The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- e. The adequacy of stormwater and drainage facilities and compliance with any applicable federal, state or Town stormwater requirements.
- f. The adequacy of water supply and sewage disposal facilities.
- g. The 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.
- h. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- i. Compliance with architectural requirements, if any, in the applicable district.



j. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

k. That there be a reasonable provision for open space, yards and recreation areas appropriate to the structure and use.

l. Overall impact on the neighborhood, including compatibility of design considerations, environmental and aesthetic impacts.

m. Overall impact on natural, scenic, cultural, and historic resources of the Town or surrounding areas.

If the Planning Board determines that the applicant has not adequately addressed these or other pertinent issues, the Planning Board may deny the site plan approval.

## 2. **Site Design Objectives.**

a. Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture, colors and size/mass.

b. New developments should not erase landforms that are indigenous to the area. Instead, solutions should reflect and reinforce the area's own topographic features. Consequently, developments should strive to minimize cuts and fills when grading is necessary; slopes should be graded to mimic existing slopes and blend smoothly into the surrounding landform.

c. Whenever possible, buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks and other pedestrian use areas.

d. Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials and placement and shall harmonize with traditional elements in the architectural fabric of the area.

e. Architectural design shall be in keeping with the rural, agricultural and natural character of the area. In general, the design shall avoid flat roofs (except when the existing predominant architecture is characterized by such architectural features), large expanses of undifferentiated facades and long, plain wall sections.

f. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.

g. Sites should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this concept include:

(1) Orienting buildings to fronting streets and placing parking at the rear and/or sides.

(2) Designing the required parking area into smaller, discrete, connected lots rather than large, single-use lots.

(3) Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways use pavers, changes in color, texture and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways shall be five (5') feet and shall accommodate wheelchair access.

(4) Parking areas shall be designed to be fully screened to the greatest extent possible from adjacent streets and building occupants. Screening can be accomplished through a number of methods, including:

- (a) Orienting buildings away from parking areas.
- (b) Placing buildings between streets and parking lots.
- (c) Using extensive landscape screening, berms and architecturally treated walls.

(5) All measures should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

h. Where appropriate, site plans shall be designed to provide vehicle and pedestrian connections with adjacent sites.

i. All new utilities should be installed underground.

3. **Building Design Objectives.**

a. No single architectural style is required except when otherwise required by Town of Sennett regulations.

b. Buildings should reflect an individual design that has considered site location, conditions and surrounding development. Building design should provide a sense of permanence and timelessness. High-quality construction and materials should be used to ensure that buildings will not look dated or worn down over time. Building designs should reflect an individual style and form and not merely current trends.

c. A consistent visual identity shall be applied to all sides of buildings visible to the general public. In these areas, all building sides shall have an equivalent level of quality of materials, detailing, and window placement. Abrupt ending of architectural details shall be avoided, with no radical change in details or features or materials.

d. Long, blank walls are to be avoided. Positive methods to achieve this objective include changes in colors and materials, placement of windows, use of awnings and canopies, and architectural details and features such as corners, setbacks and offsets. Windows at ground level may be tinted; however, reflective and mirrored windows are prohibited.

e. Buildings facing streets shall incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances, and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.

f. Modulation (defined as a measured setback or offset in a building face) shall be incorporated to reduce overall bulk and mass of buildings. The planes of exterior walls should not run in one continuous direction more than sixty (60') feet without an offset or setback.

g. Large buildings should have height variations to give the appearance of distinct elements.

h. Building colors should accent, blend with, or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.

i. Landscape areas or planting beds having a minimum width of five (5') feet should be provided around perimeters to separate buildings from surrounding pavement areas.

j. Outdoor storage areas, mechanical equipment, utility vaults, and trash receptacles must not be visible from adjacent streets and pedestrian walkways.

k. Outdoor mechanical equipment shall be appropriately screened from view and sound to adjoining properties. The method of screening shall be architecturally integrated with the building with respect to materials, color, shape, and size.

l. Site services should be located on the least-visible side of a building or site or within interior building spaces.

m. Ground-level outdoor enclosures shall be composed of materials similar to the main structure.

n. Materials used for site features such as fences, screen walls, and signs should be appropriate to the zoning district where the development is located and should complement building design through materials, color, shape, and size.

o. Developments should provide transition with adjacent uses, especially regarding building location, size and scale. No single building or development should dominate adjacent uses in terms of size, bulk, view blockage, or shading.

#### 4. **Sign Objectives for Commercial Developments.**

##### a. **Building Signs.**

- (1) Individual letters rather than cabinet signs are preferred.
- (2) Backlit individual letters are a preferred alternative.
- (3) Sign colors should be coordinated with building colors.

(4) Signs should be compatible in scale and proportion with building design and other signs.

(5) A specific sign program or concept should be designed for multiple tenant buildings or complexes. Color and letter style shall be coordinated when businesses share the same building and consistent sign patterns (placement on buildings) shall be utilized.

(6) Sign size shall be consistent with the regulations contained in this Law.

(7) Monument structure is preferred over pole-mounted signs.

(8) Wood and/or stone construction is preferred.

b. **Freestanding Signs.**

(1) Freestanding signs should provide only the name and address of the building and/or building tenants.

(2) Project landscaping should be designed to incorporate freestanding signs.

5. **Landscaping Objectives for Commercial Developments.**

a. Existing vegetation should be incorporated into overall site design and preserved to the maximum extent possible.

b. Provide unity of design through repetition of plants and coordination with adjacent developments.

c. Landscape materials should be hardy species that are adaptable to local conditions, easily maintained, and drought-tolerant. Use of native plants is strongly encouraged.

d. Open stormwater facilities should be incorporated into project landscaping and open space where geographically feasible. Encouragement will be given to use of parking islands for stormwater detention as a site feature.

e. Open stormwater facilities shall be landscaped and screened.

6. **Lighting Objectives.**

a. Moving and flashing lights are prohibited.

b. Use of cutoff lenses or hoods, shielded wall packs to prevent glare and light spill off of the project site and onto adjacent properties, buildings, and roadways are required.

c. Design features which are consistent with protection of “dark skies” and which avoid light pollution and spillage should be demonstrated.

d. Lighting standards should be designed and sized to be compatible with the character of the development and consistent with the “dark skies” policies outlined below.

- (1) All lighting shall be IESNA full cutoff [unless otherwise permitted in Table 1].
- (2) Illumination of a flagpole is permitted, provided that no more than one narrow beam thirty-nine-watt metal halide par lamp or its equivalent is used and aimed to only illuminate the flag. The source of illumination must be shielded in a manner so as not to be visible from adjacent property.
- (3) Light fixtures associated with canopies, including but not limited to fuel islands, storefronts, shopping malls, theaters, bank drive-throughs and hotels shall be mounted so that the bottom of the lens is recessed or flush with the bottom surface of the canopy. All light emitted from the canopy shall be substantially confined to the ground directly beneath the perimeter of the canopy. No lighting of any kind, except as may be permitted by sign regulations, shall be allowed on the top or sides of a canopy.
- (4) All lights on property adjacent to residential zoned land, except those required for security at entrances, stairways and loading docks shall be circuited such that lighting shall be reduced by at least fifty percent (50%) within one (1) hour after the end of business hours and be operated in such fifty percent (50%) (or lower) reduced mode until one (1) hour prior to the commencement of business hours. Lighting closest to the building or structures shall be circuited separately from lighting on the property perimeter to allow after-hours controls.
- (5) Landscape, special feature accent lighting and facade lighting shall be located and shielded such that the light source is not visible from off property.
- (6) All stadium and all other exterior sports arena lights used for the purpose of illuminance of the playing area must be turned off within thirty (30) minutes of the conclusion of the final event of the day. The remainder of the facility lighting, except for reasons of security, must be turned off within one (1) hour after the event, and remain extinguished until one (1) hour prior to the commencement of the next event.
- (7) Illuminance of a building facade to enhance architectural features is permitted. Downlighting is preferred, provided that wall-mounted fixtures are used and illuminance is contained completely within the vertical face of the building and does not spill off the building edge. Uplighting may be permitted, provided that no illuminance escapes the facade. Lights mounted on poles for the purpose of illuminating the building facade are not permitted.

D. **Planning Board Action on the Site Plan.** Within sixty-two (62) days of the receipt of a complete application (or the close of any applicable public hearing, whichever is later) for site plan approval, the Planning Board shall render a decision and thereafter file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.

1. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, Code Enforcement Officer, and file same with the Town Clerk.

2. Upon disapproval of a site plan, the planning board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

3. **Public Hearing.** At its discretion, the Planning Board may determine to hold a public hearing to consider the site plan. Such hearing, however, is not mandatory.

E. **Reimbursable Costs.** Reasonable and necessary costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be reimbursed to the Town by the applicant, not to exceed a level set out in the Fee Schedule adopted by the Town Board pursuant to Section 1406 of this Law.

F. **Performance Guarantees.** No certificate of occupancy shall be issued until all improvements shown on the site plans are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The Town Board shall determine the sufficiency of such performance guarantee after consultations with the Planning Board, Code Enforcement Officer, town engineer and other appropriate parties.

G. **Inspection of Improvements.** The Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

H. **Integration of Procedures.** Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this zoning ordinance or other requirements of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

**Section 601** **Other Considerations.** In addition to the standards for site plan review set forth in Section 600 above, the Planning Board may, when it deems it necessary and pertinent to a full understanding of the scope and nature of a particular proposal, require information regarding the production, emission, or transmission into the general neighborhood of dust, smoke, refuse, odor, gas, fumes, noise, vibration, light or similar substance or condition as follows (and the applicants shall demonstrate that the following standards are met):

A. All applicable building and fire codes have been or can be complied with prior to issuance of occupancy permit.

B. Glare from direct or indirect lighting originating from the source shall not cause illumination in excess of 0.5 footcandles onto neighboring property when measured in an R district or an A/R district.

C. Toxic substances, materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts, shall not be used, stored, processed, transported or in other ways incorporated into the industrial operations of the applicant in any manner which threatens the safety of the residents, property or resources of the Town of Sennett.

D. Smoke emitted from any stack, vent, chimney or combustion process shall not be of a shade in excess of Ringlemann No. 1, except for a total of three (3) minutes in an eight (8) hour period where such shall not be of a shade in excess of Ringlemann No. 3. The Ringlemann Chart is published by the U.S. Bureau of Mines.

E. Odor shall be measured by the Standard Practice for Determination of Odor and Taste Thresholds By a Forced-Choice Ascending Concentration Services Method of Limits (ASTM E679-04) or its equivalent. Odor released shall not exceed the odor threshold concentration at or beyond the district boundary line measured either at ground level or habitable elevation.

F. Dust and particulate shall not exceed levels set forth by the American Conference of Governmental Industrial Hygienists.

**Section 602** **Existing Structures.** Existing structures which conform to the use and dimensional regulations of this ordinance may be routinely maintained, renovated, reconstructed or restored, from time to time, in conformity with the use and dimensional regulations of the ordinance then in effect, upon the issuance of a Zoning Permit by the Code Enforcement Officer, without necessity for prior site plan review and approval of the Planning Board or special permit from the ZBA.

## **ARTICLE VII DIMENSIONAL REQUIREMENTS**

**Section 700** **District Regulations.** The regulations for each district pertaining to minimum lot size, minimum lot width, maximum building coverage, minimum front yard setback, minimum side yard setback, minimum rear yard setback, and maximum height shall be as specified in this Section, subject to the further provisions of this Law.

TABLE OF DIMENSIONAL REQUIREMENTS\*

District	Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback (feet) <sup>2</sup>	Minimum Side Yards Setback (feet)	Minimum Rear Yard Setback (feet)	Maximum Height (feet)
A/R	2 acres	200	65	25	50	35
R	<ul style="list-style-type: none"> <li>• ½ acre (21,780 sq. ft.) with public water and sewer</li> <li>• 1 acre without public water and sewer</li> </ul>	100	35	15	35	35
CL/I	1 acre	125	50	20	30	35
I	4 acres	200	85	40	40	60
H-L	(shall comply with A/R dimensional requirements)					
COD	(shall comply with A/R dimensional requirements for agricultural and residential uses, and C/LI dimensional requirements for commercial uses)					

\* See Section 504.8 for accessory building setback requirements.

**Section 701 Lot Area or Yards Required.** The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Law. No lot shall be so altered that the area of the lot or the dimensions of yards or other open spaces are smaller than herein prescribed.

**Section 702 Exceptions to Minimum Lot Sizes and Lot Widths.**

A. The provisions of Section 700 shall not prevent the construction of a single family dwelling (where such use is allowed), provided that 1) the yard requirements specified at the time of the creation of the lot are observed, 2) the lot was lawful when created, and 3) the lot, prior to the effective date of this Law, was in separate ownership duly recorded by plan or deed. In addition, all front, side and rear yard setbacks shall be observed as prescribed in Section 700. Such lots shall demonstrate the ability to appropriately discharge waste and provide a potable source of water.

B. Exemption of lots shown on approved subdivision plats shall be made in accordance with the provision of Section 265-a of New York State Town Law.

**Section 703 Traffic Visibility Across Corners (clear sight triangle).**

A. On any corner lot, no wall, fence, or other structure shall be erected or altered and no hedge, tree, shrub, or other growth except agricultural crops shall be maintained which may cause danger to traffic on any public street due to obscuring of the view. Visual obstructions shall be limited to a height of not more than two (2') feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five (25') feet from the intersection of said street lines.

<sup>2</sup> Front yard setbacks shall be measured from the street line of the existing street, highway or road.



B. Where a private accessory intersects a public street, visual obstructions shall be limited to a height of not more than two (2') feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10') feet from the intersection of said lines.

**Section 704** **Essential Services.** The erection, construction, alteration or maintenance by public utilities or town or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, communication systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, hot boxes, telephone junction boxes, fire boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith (but not including buildings) shall be allowed as reasonably necessary for the furnishing of adequate service by such public utilities or town or other governmental agencies or for the public health or safety or general welfare.

**Section 705** **Terraces, etc., and Projections in Required Yards.** Subject to Section 703, the provisions of Section 700 shall not apply to terraces, steps, uncovered porches, or similar features not over three (3') feet above the floor level of the ground story. Arbors, open trellis, flagpoles, recreation equipment and clotheslines are exempt from Section 700.

**Section 706** **Front and Side Yards of Corner Lots.** A front yard for an individual corner lot shall be determined by way of the proposed postal address established by the owner of the parcel. Front and side yard setbacks for corner lots shall be thirty-five (35') feet.

**Section 707** **Building Height Regulations.** Maximum height regulations shall not apply to farm buildings, church spires, chimneys, or other structures built above the roof and not devoted to human occupancy.

## ARTICLE VIII OFF STREET PARKING AND LOADING

**Section 800** **Required Off-Street Parking and Loading Spaces.**

**Parking Space.** The following off-street parking provisions constitute the minimum space required for the following buildings and uses hereafter erected, converted, or otherwise established in any district. These regulations are intended to prevent or alleviate congestion of public streets and promote public safety.

A. **One-Family Detached Dwelling, Two-Family Dwelling.** Two (2) off-street parking spaces for each dwelling unit shall be provided.

B. **Multiple Family Dwelling.** Two (2) off-street parking spaces for each dwelling unit shall be provided.

C. **Motel, Hotel.** One (1) off-street parking space for each rental room or suite, plus one (1) additional space for each full-time employee on the premises at any given time, shall be provided.

D. **Restaurants and Cafés (Eating or Drinking Establishments).** One (1) off-street parking space for every three (3) seats plus one (1) off-street parking space for every one-hundred (100) square feet of floor area devoted to customer uses.

E. **Church, Library, Fire Station and Funeral Home.** One (1) off-street parking space for every four (4) seats provided for patrons, customers, members, or guests, plus one (1) additional off-street parking space for each full-time employee on the premises at any given time.

1. Where places of public assembly are provided with benches rather than fixed undivided seats, each two (2') lineal feet of bench equals one (1) seat.

2. Where no fixed seats are utilized, each fifty (50) square feet of floor area shall equal one (1) seat.

F. **Office Uses.** One (1) off-street parking space for each hundred (100) square feet of gross floor area shall be provided.

G. **Stores and Shopping Centers.** One (1) off-street parking space for each one-hundred fifty (150) square feet of gross floor area shall be provided.

H. **Institutional Uses.** One (1) off-street parking space for each patient or resident bed (excluding bassinets and cribs), plus one (1) space for each full-time employee on the premises at any given time, shall be provided.

I. **Home Occupation.** Two (2) off-street parking spaces in addition to the requirement for the dwelling shall be provided.

J. **Farm Stand.** One (1) off-street parking space for each one hundred (100) square feet of area occupied by the stand, shall be provided, but in no case fewer than three (3) such spaces.

K. **Bed and Breakfasts and Boarding Homes.** One (1) off-street parking space for each guest room in addition to the requirement for the dwelling, shall be provided.

L. **Industrial or Manufacturing.** One (1) off-street parking space for each five hundred (500) square feet of gross floor area, shall be provided.

M. **Warehousing.** Two (2) off-street parking spaces for each employee shall be provided.

N. **Other Commercial Enterprises.** For any commercial enterprise not listed in this Section, one (1) parking off-street space for each three-hundred (300) square feet of gross floor area shall be provided.

O. **General Parking Requirements for Nonresidential or Mixed-Use Structures.** In addition to more specific requirements otherwise listed in this Article, all nonresidential and mixed use structures shall comply with the following parking provisions:

1. **Exemption.** Parking facilities existing on the date of enactment of this Law shall be exempt from compliance with these design standards unless a change of use has subsequently occurred or the Code Enforcement Officer has determined an unsafe condition exists and requires modifications to the parking design on the premises.

2. **Access and Layout.** The curb cut, driveway and parking area shall be designed so that all vehicle movements to and from the public right-of-way are in a forward direction. The layout of the parking area shall permit entering and exiting without moving vehicle(s) parked in other spaces.

3. **Entrances and Exits.** The location, number and width of each curb cut providing access to and from a public road shall be specified by the Planning Board, absent control by another jurisdiction.

P. **Loading and Unloading Space.** Off-street loading and unloading space, sufficient to accommodate the maximum demand generated by the use of the lot, shall be demonstrated by the applicant and shall be provided on any lot on which a building for commercial use is hereafter erected or substantially altered. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

**Section 801 Design of Off-Street Parking and Loading Facilities.**

A. All parking facilities provided under this Article shall be located off the public right-of-way and shall contain an area of at least two hundred (200) square feet per automobile parking space exclusive of access ways, aisles, and maneuvering space. (*See Site Plan Review Standards*). Each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete, or black top.

B. Two or more establishments may join in meeting the requirements of this Article, provided that the total area for parking is the sum of the individual requirements and the property owners provide a binding instrument benefitting each property.

C. Driveways and parking areas for nonresidential uses except home occupations shall include, within the lot lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street.

D. All illumination on parking lots shall be shielded so as to not spill upon abutting properties.

**ARTICLE IX  
SIGNS**

**Section 900 Conflicts.** In the event that any of the Sections of this Article are in conflict, the most restrictive regulation pertaining to the particular sign in question shall apply.

**Section 901 Definition of “Sign”.** Sign shall mean and include any permanent or temporary structure or part thereof, or any device attached, painted, or represented directly or indirectly on a structure or other outdoor surface that shall display or include any letter, word, insignia, banner or representation used as, or which is in the nature of, an advertisement, announcement, visual communication, direction, or is designed to attract the eye or bring the subject to the attention of the public.

**Section 902 Definitions of “On-Premises” and “Off-premises” Signs.**

A. **On-Premises Sign.** A sign that directs attention to a person, business, profession, home occupation or activity conducted on the same lot. A “for sale” or “for rent” sign relating to the lot on which it is displayed shall be deemed an “on-premises sign”.

B. **Off-Premises Sign.** A sign which directs attention to a person, business, profession, product, home occupation, or activity not conducted on the same lot.

**Section 903**      **Area of a Sign.**

A. The area of sign shall be constructed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

B. The area of a sign painted upon or applied to a building shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing associated with the sign.

C. Where the sign consists of individual letters or symbols attached to or painted on a surface, buildings, walls, or windows, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.

**Section 904**      **Permit Requirements for Signs.** All on-premises signs over ten (10 ft<sup>2</sup>) square feet in area and all off-premises signs except governmental signs regardless of size shall require the issuance of a zoning permit before erection or placement. All signs must comply with all of the regulations contained herein, irrespective of whether a permit is required.

**Section 905**      **Signs Permitted in Districts.** No sign or other advertising device shall be permitted in any district except as follows:

A.      **On-Premises Signs.**

1. Official traffic signs and other official federal, state, county, or town government signs.

2. Signs displaying the name and address of the occupant of a dwelling, provided that the area of any such sign shall not exceed three (3) square feet per side and not more than one (1) such sign shall be erected for each dwelling unit, unless such property fronts on more than one street, in which case one (1) such sign may be erected on each street frontage.

3. Identification sign for a housing development or an apartment house, provided that the area of any such sign shall not exceed fifteen (15) square feet per side, and not more than one (1) such sign shall be erected for any one (1) project, unless such project fronts on more than one (1) street, in which case, one (1) sign may be erected on each street frontage.

4. Signs advertising the sale of farm products, nursery products, or livestock produced or raised on the premises, provided that the area of any such sign shall not exceed ten (10) square feet per side and not more than two (2) such signs shall be placed on property held in single and separate ownership unless such property fronts on more than one (1) street, in which case two (2) such signs may be erected on each street frontage.

5. Signs denoting membership in agricultural associations, cooperatives, or indicating specialization in a particular breed of cattle, hogs, etc. Such signs may also include the name of the farm or of the owner and shall not exceed ten (10) square feet per side and not more than two (2) such signs shall be placed on property held in single and separate ownership unless such property fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.

6. Bulletin or announcement board for schools, churches, hospitals, recreation areas, and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed twenty-five (25) square feet per side and not more than one (1) such sign shall be placed on property held in single and separate ownership unless such property fronts on more than one (1) street, in which case two (2) such signs may be erected on each street frontage.

7. Identification signs for schools, churches, hospitals, recreation areas, and other principal uses and buildings other than dwellings, provided that such sign is attached to part of the building structure to which it relates, does not exceed thirty-two (32) square feet and further provided that not more than one (1) such sign shall be placed on property held in single and separate ownership unless the property fronts more than one (1) street, in which case one (1) such sign may be erected on each street frontage.

8. Signs advertising the sale or rental of non-residential property, provided that the area of any such sign shall not exceed thirty-two (32) square feet per side and not more than one (1) such sign shall be placed on property held in single and separate ownership unless such property fronts on more than one (1) street, in which case, one (1) such sign may be erected on each street frontage. Such signs shall be removed immediately upon final settlement or renting of the property.

9. Temporary contractors, developers, architects, or builders' signs, provided that the area of any such sign shall not exceed thirty-two (32) square feet per side. However, at work sites involving residential work where an existing house or garage is being repaired, the size of the sign shall not exceed five (5) square feet.

10. Trespassing signs, signs indicating the private nature of a road, driveway, or premises, signs controlling fishing or hunting on the premises, provided that the area of any such sign shall not exceed four (4) square feet per side.

11. Signs announcing a Home Occupation, provided that the area of any such sign shall not exceed four (4) square feet and shall be attached to the structure. No such signs shall be illuminated in the R, A/R and H-L Overlay Zones.

**B. Off-Premises Signs.**

1. Off-premises signs, which are used for directing patrons, members, or audience to service clubs, churches, or other non-profit organizations, may be erected subject to the following requirements:

a. A sign shall indicate only the name of the organization and the direction to the facility.

b. Only one (1) such sign shall be erected prior to each intersection at which a turn is required to reach such facility.

c. Signs shall not exceed four (4 sq. ft.) square feet in area for each organization represented, except for cooperative displays by more than one (1) organization, in which case the area of any such sign shall not exceed twenty-five (25 sq. ft.) square feet

2. Signs directing patrons, members, or audience to temporary exhibits, shows, or events may be erected subject to the following requirements:

- a. No such sign shall exceed thirty-two (32 sq. ft.) square feet in area.
- b. Any such sign shall be removed within one (1) week after the date of the exhibit, show or event.
- c. No such sign shall be posted earlier than one (1) month before the occurrence of the event to which it relates.

3. Official traffic signs and other official federal, state, county, or town government signs.

**Section 906**      **Signs Permitted to Identify a Business.** No sign or other advertising device shall be permitted except as follows:

A.      **On-Premises Signs in C/LI I, COD, and A/R & H-L Districts.**

1. Signs attached to a building and to be viewed from without, provided that the total area of all such signs placed on any one building shall not exceed one (1 ft<sup>2</sup>) square foot for each one (1) lineal foot of the building's front wall but in no case shall such sign exceed a total of forty-five (45) square feet.

2. One (1) free standing sign for each street frontage of a lot provided that the total area of such sign shall not exceed one (1) square foot for each lineal foot of lot frontage but in no case shall such sign exceed a total of twenty-five (25) square feet per side.

3. Special temporary promotional devices, signs, or displays such as banners and pennants.

B.      **Off-Premise Signs.**

1. Off-premises advertising signs shall be permitted in C/LI and I districts subject to the following requirements:

a. No such sign shall be located within one hundred (100') feet of a public street or road right of way.

b. Not more than one (1) such sign shall be placed on any one (1) property held in single and separate ownership, unless such property has frontage on more than one street, in which case one (1) sign may be placed on each street frontage.

c. The area of any such sign shall not exceed eighty (80) square feet, and the height shall not exceed ten (10') feet.

2. Off-premises signs, which are used for directing persons to principal uses shall be permitted in C/LI and I districts in accordance with the following requirements:

a. A sign shall indicate only the name and direction of the principal use.

b. Only one (1) such sign shall be erected prior to each intersection at which a turn is required to reach such principal use and not more than fifty (50') feet from such intersection.

c. No more than two (2) directional signs shall be erected in the Town for any one (1) principal use.

- d. Signs shall not exceed fifteen (15) square feet in area.
- e. Signs shall be no closer than fifteen (15') feet to a side lot line and shall not be located within the street line.
- f. Signs shall not exceed ten (10') feet in height.

**Section 907**      **General Sign Regulations.** The following requirements shall apply to all signs:

- A. No sign shall have visible moving or moveable parts or flashing, animated, or intermittent illumination.
- B. No sign shall project more than twelve (12") inches out from the wall to which it is attached. Signs not exceeding two (2) square feet in area may be placed perpendicular to a building face if attached to and below a canopy projection from said building.
- C. No sign shall be located within ten (10') feet of any side lot line.
- D. No sign shall be located within any street lines except official traffic signs and other official government signs.
- E. Signs shall not project above the building height limit permitted in any district in which they are located.
- F. All signs except temporary signs shall be constructed of durable material and kept in good condition and repair.
- G. Nonconforming signs once removed shall be replaced only with conforming signs; however, nonconforming signs may be repainted or repaired provided such repainted or repaired sign does not exceed the dimension of the existing sign.

**Section 908**      **Temporary Signs.** Temporary signs are those signs designed exclusively to inform the general public of, among other things, a real estate open house, garage or estate sale, fundraising campaign, political campaign, social event, civic undertaking or annual festivity to be erected or placed on the property where such event will take place and which have a definable temporal duration. All such signs and similar purpose signs shall constitute temporary signs and shall be treated equally under these regulations. Such signs may be allowed in all districts upon the issuance of a permit by the Code Enforcement Officer upon demonstration that they will not impede the vision of any street or otherwise create a hazard and further that such temporary signs may not be placed on public property, except by written permission of the Town Board. The Town Code Enforcement Officer shall remove any sign in violation of this provision

**ARTICLE X**  
**COMMERCIAL TOWERS, TELEVISION AND RADIO TOWERS, COMMERCIAL**  
**MOBILE SERVICES AND SATELLITE DISH ANTENNAE**

**Section 1000**      **Commercial Television and Radio Towers or Facilities.** Towers or facilities for transmitting or receiving any signal, broadcast or communication as part of a business (other than commercial mobile services) or as part of a commercial television, AM radio or FM radio enterprise may be erected, altered or used only in an A/R, C/LI or I District in the Town of Sennett within the meaning of this Law, as amended, and may be so erected, altered or used only upon findings by the Town Board that such structure or use, together with such conditions and safeguards it may impose, is necessary for the public convenience; that such

structure or use is not detrimental to the public health, safety or welfare; and that the location proposed therefore is appropriate. Towers or facilities used exclusively for the broadcast or communications of official law enforcement, fire control or medical emergency matters are exempt from this provision.

**Section 1001 Commercial Mobile Service Facilities.** No commercial mobile service facility shall hereafter be located, constructed, erected, changed, altered, used or added to in any district except in conformity with the following provisions:

A. **Findings.**

1. While the federal government has regulated the commercial mobile industry, it has reserved to local governments the power to regulate uses with regard to placement, construction, and other issues

2. Local governments may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services.

3. According to federal law, local governments may not regulate such uses on the basis of radio frequency radiation (RFR).

4. The technology underlying commercial mobile service requires that transmitting facilities be located in proximity to one another, as low-frequency signals are passed from one service cell to another, in relay fashion.

5. The Town has an interest in minimizing the number of towers that are located within its borders.

6. The installation of tower structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.

7. In many cases, antennas mounted on existing structures and towers (i.e., co-location) can provide commercial mobile service with minimal or no aesthetic impacts upon neighboring uses.

8. Where the construction of new towers is necessary in order to provide commercial mobile services, often it is possible to house more than one such provider on such structure, thus reducing the proliferation of new tower construction.

B. **Purpose.**

1. The purpose of this section is to establish predictable and balanced regulations for the siting of telecommunication facilities in order to accommodate the growth of such facilities while protecting the public against any adverse impacts on aesthetic resources and the public health, safety and welfare. The Town of Sennett wants to accommodate the need for telecommunications facilities while regulating their location and number, minimizing adverse visual impacts through proper design, siting and screening, avoiding potential physical damage to adjacent properties, and encouraging joint use of tower structures.

2. This section also seeks to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures in order to further minimize adverse visual effects from telecommunications towers.



3. This section is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall it be used to unreasonably discriminate among the providers of functionally equivalent services consistent with current federal regulations.

C. **Approvals Required for Commercial Mobile Service Facilities.**

1. Antennas and accessory equipment related thereto, other than towers, are permitted in all use districts in the Town provided they are placed on existing structures thirty (30') feet or more in height, other than one-family and two-family dwellings, subject to the following:

a. If located in a C/LI or I district and twenty (20') feet in antenna height or less, the site plan must be approved by the Town of Sennett Planning Board.

b. If located in a C/LI or I district and in excess of twenty (20') feet in antenna height, a special use permit must be issued by the ZBA, as established by Section 1500 of this Law.

c. If located in an R, A/R, C/LI, I, COD, or H-L district, a special use permit must be issued by the Town of Sennett ZBA.

2. Towers and accessory equipment related thereto are permitted only in the R, A/R, C/LI, I, COD, and H-L districts upon issuance of a special use permit and subject to the following:

a. If the tower is one hundred fifty (150') feet in height or less a site plan approval must be issued by the Town of Sennett Planning Board upon the general guidelines, requirements and aesthetic design and standards contained herein.

b. If the tower is over one hundred fifty (150') feet in height, but not greater than two hundred (200') feet in height, a special use permit must be issued by the ZBA.

c. For towers proposed to be located within R, A/R, COD, or A/R & H-L districts, a site plan approval must be obtained complying with the submission requirements for site plan approval as set forth in this Law and the general guidelines, requirements and design standards set forth herein.

3. Commercial mobile service antennas or towers, other than those specifically allowed under this Section 1001(C) are not permitted in the Town of Sennett.

D. **General Guidelines and Requirements.**

1. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such lot and building requirements, the dimensions of the entire lot shall control, even though such antenna or tower may be located on leased parcels within such lots.

2. **Nonconforming Uses.** Towers that are constructed and antennas that are installed in accordance with these provisions shall not be deemed to constitute the expansion of a nonconforming use or structure.

3. **Proof of Compliance with Other Laws.**

a. All commercial mobile service facilities must meet or exceed all applicable federal, state and local laws, rules and regulations, including but not limited to any rules, standards or regulations of the FCC and the FAA. If such standards, rules, laws or regulations are changed or amended at any time in the future, then the owners of such facilities shall bring those facilities into compliance with such revised regulations within six (6) months of the effective date of such changes or amendments, unless a more restrictive compliance schedule is mandated by the controlling agency.

b. The operator of any commercial mobile service facility sited within the Town of Sennett shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation (RFR) emission standards. Such annual certification shall be delivered to the Town Code Enforcement Officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special permit and/or use variance granted for such facilities.

4. **Compliance with Building Codes.** The owner of any commercial mobile service facility shall locate, construct, erect, use and maintain such facility in accordance with all applicable building codes.

5. **Height Restrictions.** The building height restrictions otherwise applicable in the zoning use district in which a commercial mobile service facility is located shall not apply to facilities approved in accordance with these regulations. When measuring structure height in connection with antennas on existing structures, height shall be measured from the mean elevation at finished grade to the highest point of the existing structure. When measuring antenna height in connection with antennas mounted on existing structures, such height shall be measured from the point of such existing structure at which the antenna is mounted to the highest point of the antenna.

6. **Maximum Tower Height.** In no event shall any tower exceed a height of two hundred (200') feet. Tower height shall be measured from the average elevation at grade level to the highest point of the tower structure, including all antennas and accessory equipment attached thereto.

7. **Tower Inspections.** Towers shall be inspected annually on behalf of the tower owner by a licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Code Enforcement Officer no later than December 31 of each calendar year.

8. **Maintenance and Repair.** All commercial mobile service facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs, which may be undertaken at any time with prior notice to the Town Code Enforcement Officer.

9. **Existing Structures.** By way of illustration, existing structures, as referred to in these regulations governing the siting of commercial mobile service facilities, shall include but not be limited to signs, church spires, belfries, cupolas, domes, monuments, water towers, pre-existing tower structures, windmills, chimneys, smokestacks, buildings, utility towers, clock towers, silos, barns or other agricultural buildings, steeples, radio or television towers and commercial parking lot light poles.

10. **Restriction on Multiple Towers.** No more than one (1) tower may be permitted on any parcel of land.

11. **Tower Separation.** A minimum radius of four thousand (4,000') feet must be maintained between any proposed tower and any existing tower, whether located in the Town of Sennett or in any adjacent municipality.

E. **Aesthetics and Design Standards.**

1. **Fencing.** The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence at least eight (8') feet in height. Such fence shall enclose the base of the tower, as well as any and all accessory equipment and structures used in connection therewith.

2. **Landscaping.** All commercial mobile service facilities located, installed or constructed at ground level, including towers, tower anchors, accessory structures to towers or antennas or fencing surrounding such uses shall be visually screened from adjoining residential properties and public rights-of-way by one (1) row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six (6') feet in height within two (2) years of planting. Additional vegetative screening may be required, as needed, in order to minimize adverse visual impacts on neighboring properties. Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4") inches in diameter (measured at a height of four (4') feet off the ground) shall take place prior to the appropriate site plan or special permit review and approval. Such landscaping shall be preserved, maintained and replaced as needed.

3. **Signs.** Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities, except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five (5) square feet in surface area.

4. **Lighting.** Commercial mobile service facilities shall not be artificially lighted, unless so required by the FAA. If lighting is so required, the lighting alternatives and design used shall be the minimum mandated by the FAA.

5. **Utility Connections.** All utility connections to commercial mobile service facilities shall be installed beneath the ground surface.

6. **Color.**

a. **Towers.** Towers shall either be maintained with a galvanized finish, painted gray or, subject to any FAA restrictions, be painted a neutral color, so as to reduce visual obtrusiveness.

b. **Antennas.** Antennas and accessory equipment installed on existing structures shall be painted a color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

c. **Accessory Structures Located at Ground Level.** Accessory equipment and structures (other than towers) located at ground level shall be painted neutral colors that will blend with their natural surroundings to the maximum extent possible.

7. **Tower Access and Parking.** A road and parking for one (1) vehicle shall be provided in order to assure adequate emergency and service access. Maximum use of existing roads and drives shall be made and at all times ground and vegetation disturbance shall be minimized.

8. **Antennas Affixed to the Face of Existing Structures.** Antennas affixed to the face of existing structures may not protrude in excess of five (5') feet horizontally between the antenna and the existing structure face.

9. **Tower Co-Location.** Commercial mobile service towers shall, to the maximum extent possible, be designed to provide for co-location (use) by at least five (5) providers, or designed so that they can be retrofitted to accommodate at least five (5) providers. However, such co-location standards shall emphasize the lowest tower height possible.

10. **Accessory Equipment Located on Building Roofs.** Any accessory equipment located on building roofs shall be located so as not to be seen or to minimize visibility from ground level.

11. **System Connections.** Where technologically feasible, connections between commercial mobile service facilities and the system of which they are a part shall be made by use of land line cable rather than by parabolic or dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6') feet.

12. **Tower Setbacks.** Towers shall not be located closer than two hundred (200') feet to the nearest residential lot line. In all other cases, towers shall be set back from adjoining properties a distance equal to at least the height of such tower. Furthermore, other telecommunication accessory facilities shall comply with all existing setbacks within the affected zone. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the zoning board or planning board to contain substantially on-site all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.

13. **Visibility.** All commercial mobile service facilities shall be sited, located and designed so as to have the least possible practical visual impact on the environment and surroundings.

14. **Fall Zones.** Telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication facilities.

F. **Factors and Considerations in Granting Special Use Permits for Commercial Mobile Service Facilities.** The following factors and considerations shall be considered by the ZBA in reviewing applications for special use permits related to commercial mobile service facilities in addition to the standards and findings required in Article XV of this Law:

1. The applicant must demonstrate that the location of the commercial mobile service facility, as proposed, is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area. The applicant must demonstrate that all reasonable measures have been taken to minimize the visual impacts of the proposed facilities.

2. Additional standards and factors to be considered in reviewing special use permits relating to towers:

- a. Height of the proposed tower.
- b. Proximity of the proposed tower to residential structures and residential district boundaries.
- c. Nature of uses on adjacent and nearby properties.
- d. Surrounding topography.
- e. Surrounding existing tree coverage and foliage.
- f. Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- g. Proposed ingress and egress to site.
- h. **Alternatives Analysis.** The applicant must demonstrate that no existing structure, tower or alternative technology that does not require the construction of a new tower can accommodate the applicant's coverage and service needs, *i.e.*, that the proposed site is the most appropriate site among those available. Evidence submitted to demonstrate that no such alternative is reasonably available may consist of the following:

- (1) No existing towers or structures are located within the geographic area (search ring) which meet the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength or space to support applicant's proposed needs.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the existing or planned antennas on the existing towers or structures or that such existing or planned

antennas would cause such interference with the applicant's antenna.

(5) The existing tower or structure owner is unwilling to provide access or the fees, costs or contractual provisions required by the owner of the existing tower or structure in order for the applicant to co-locate on such tower or structure are unreasonable. Costs exceeding new tower construction are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.

(7) There is no governmental (federal, state or local) property available to the applicant within the geographical area (search ring) which will meet the applicant's engineering requirements.

i. **Vegetation and Screening.**

(1) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4') feet off the ground) shall take place prior to approval of the special use permit. Clear-cutting of all trees in a single contiguous area shall be minimized to the extent possible.

(2) The ZBA may require appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

G. **Application Materials and Supporting Documentation.**

1. The following information shall be submitted in support of any application (site plan, special permit, variance) for a commercial mobile service facility. This information is required in addition to any other information or documents required under any other section of this Law pertaining to Site Plan Review, Special Use Permits or Variances.

a. Full application on forms provided by the Town with review fees, including the names, addresses, phone and fax numbers of the following involved parties, as appropriate:

- (1) The landowner of the project site to be purchased or leased;
- (2) The service provider-corporate and point of contact (include the FCC license number and certificate of need as a public utility (as/if applicable));
- (3) Engineering consultant(s);
- (4) Legal representative(s); and

- (5) Other authorized service providers proposing to co-locate on the tower now or in the near future.
- (6) Where co-location is proposed, the names, addresses and phone numbers of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.
  - b. Full Environmental Assessment Form (Long Form EAF), including a Visual Environmental Assessment Form (VEAF).
  - c. The make and model of the planned facility.
  - d. The manufacturer's design data pertaining to installation.
  - e. The applicant's maintenance and inspection schedule.
  - f. Identification of the effects such facility will have on other existing facilities.
  - g. A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.
  - h. Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial mobile service facility.
  - i. **Inventory of Existing Sites.** Each applicant shall provide an inventory of its existing tower sites or other buildings or structures suitable for potential co-location within the Town or within three (3) miles of the border thereof, including specific information regarding the height, location and design of each tower facility or structures including the name, address and phone number of the owners. The Town may share this information with other applicants without representing or warranting that such sites are available or suitable.
  - j. **A Site Plan.** An applicant seeking approval for siting a commercial mobile service facility shall submit:
    - (1) A narrative description of the proposed use including:
      - (a) Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures;
      - (b) Vegetative cover (e.g., plant cover types, species, tree types (average, minimum, and maximum) relative condition (health) of the vegetation; and tree stand (density) slopes;
      - (c) Soils and the depth to bedrock;
      - (d) Wetlands and surface water bodies;
      - (e) Site drainage;

- (f) Any special plant and animal habitats contained on the NYSDEC Natural Heritage Program database;
  - (g) Any historic or archaeological resources on the site and any historic resources adjacent to the site; and
  - (h) Where co-location is proposed, provide to-scale site plans and elevations of the existing tower, building or structure to be used for co-location. Provide plans, elevations and details showing the proposed electronic communication facilities and existing antennas located on the tower.
- (2) A site plan in conformance with this Law which, in addition to the items required to be shown hereunder, shall include the following items:
- (a) The exact location of the proposed facility, including any mounting devices, appendages, support structures and accessory equipment, storage cabinets, or other materials used in connection therewith.
  - (b) The location of all structures on the site.
  - (c) The maximum height, each of the proposed facility and any structure on which it is proposed to be affixed.
  - (d) The location, type and intensity of any lighting.
  - (e) Property boundaries, adjacent uses and zoning classifications; if part of a larger parcel, include a map of the larger, parent parcel and the location of the area to be acquired or leased for the project.
  - (f) Names and addresses of adjacent property owners, as contained in public records.
  - (g) Landscaping and screening plan, including type and size of existing vegetation and any proposed removal of same.
  - (h) Location and nature of utility services and connecting land line.
  - (i) Location and nature of access.
  - (j) Details showing compliance with these regulations.
  - (k) Scale, north arrow, date and name of preparer.
  - (l) All bodies of water, wetlands, permanent or intermittent streams; and mean high watermark for larger bodies on or adjoining the project site.



(m) Existing and proposed topographic contours at two (2) foot intervals in and within two hundred (200') feet of all proposed areas to be disturbed.

(n) The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the site access, tower, and accessory structures.

(o) All trees four (4") inches or greater in size (measured at a height of four (4') feet off the ground) to be removed.

(p) All existing and proposed drainage and erosion control and stormwater management facilities.

(q) For any new or improved access roads or driveways, provide a grading plan, centerline profile, and cross sections (every one hundred (100') feet showing proposed and existing contours at two (2') foot intervals) and identify the construction material(s) (e.g., gravel, asphalt).

(r) Provide detailed construction plans and elevation of the proposed tower, antennas, equipment shelters (enclosing building, structure, cabinet, shed or box to contain batteries and electrical equipment). Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antenna-mounting mechanisms and signage. Label the size, material and provide color sample of all towers, antennas, and accessory structures (e.g., equipment shelters, security fencing, signage).

2. **Additional Submission Requirements for Towers.**

a. Identification and description of any anti-climb device.

b. A report from a licensed professional engineer which describes the tower, including its height and design, demonstrates the tower's compliance with applicable structural standards and describes the tower's capacity, including the number and types of antennas it can accommodate.

c. A legal description (metes and bounds) of the site on which the tower is proposed to be located.

d. The site plan shall also show distances between the proposed tower structure and structures on adjoining properties within five hundred (500') feet, together with the names and addresses of all property owners within five hundred (500') feet of the boundary of the property on which the tower is proposed, as contained in public records.

e. A drawing of the proposed tower, including any proposed attachments, accessory equipment, cabinets or other items used in connection therewith.

f. Identification and location of any commercial mobile service facilities located within the Town or within one mile of the Town, regardless of ownership.

g. As-built drawings, within thirty (30) days after completion of tower construction.

h. Visual impact analysis.

H. **Removal of Unused Towers, Demolition Bond.** An applicant seeking permission to construct a commercial mobile service facility shall agree, in writing, to remove such tower and related facilities if it becomes obsolete or ceases to be used for its intended purpose for a period of twelve (12) consecutive months. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The applicable Board shall require the applicant to provide a demolition bond or other security acceptable to the Town for the purpose of removing such facilities in case the applicant fails to do so as required above.

I. **Fees.**

1. An applicant for site plan approval, special use permit, or use variance for a commercial mobile service facility shall submit a nonrefundable fee, as established from time to time by resolution of the Town Board, to reimburse the Town for the costs of reviewing such applications. Such fee shall be a deposit and the applicant shall reimburse the reasonable and necessary costs associated with review of its application.

2. In addition to the preceding paragraph, the applicable Board(s) may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternatives analysis. The applicant shall bear all reasonable and necessary costs associated with such consultation which shall be assessed as an additional application fee. These additional costs shall be limited to the consultant's review of the site location alternatives analysis and its report to the applicable Board(s).

J. **Exemptions.** The following are exempt from the provisions of this section:

1. Commercial mobile service facilities located on Town of Sennett property.
2. Private, noncommercial television and radio antennas.
3. Commercial mobile service facilities may be repaired or maintained without restriction.
4. Law enforcement, fire control, E911 and medical emergency facilities.

K. **Waivers.** In approving a site plan or special use permit, the ZBA or the Town Planning Board, as the case may be, may waive any of the provisions of these regulations when it finds that doing so will have no detrimental impact on surrounding properties or on the public health, safety and welfare and that such waiver is in keeping with the purposes herein set forth.

L. **Power to Impose Conditions.** In granting any site plan approval, special use permit or variance for a commercial mobile service facility, the ZBA or the Town Planning Board, as the case may be, may impose conditions to the extent that such Board concludes that such conditions are necessary to minimize any adverse effect of the proposed tower on neighboring properties.

**Section 1002      Satellite Dish Antennas.**

**A.      Findings.**

1.      Satellite antennas can be visually bulky and unsightly due to their shape, opacity and size, particularly in residential areas. Satellite antennas, because of their mass, are often more noticeable than other antennas.

2.      The desire to obtain maximum signals with as little interference as possible may, without regulation, lead satellite antenna owners to place antennas in aesthetically inappropriate locations and/or in unsafe locations.

3.      The size, construction and mounting specifications of some larger satellite antennas can render them subject to falling over and to severe wind loadings, necessitating attention to installation to avoid injury to persons and property.

4.      Satellite antennas, when ground mounted, can be an attractive site for children to climb.

5.      The visual impact of larger satellite antennas in residential areas is more significant than in commercial or business areas because building size is smaller and land use is less dense in residential areas than in commercial/business areas.

**B.      Purpose.** The purposes of this subsection are as follows:

1.      To permit reception of satellite transmissions while minimizing the potential for adverse safety and aesthetic impacts of such uses.

2.      To diminish the visual impact of satellite antennas.

3.      To encourage safety in the placement of satellite antennas so as to avoid injury to persons and/or property in the area.

4.      To facilitate aesthetic integration of satellite antennas and radio antennas into overall building and/or lot design.

**C.**      No satellite dish antenna shall be erected, constructed, installed or permitted unless a building permit is issued by the Town of Sennett Code Enforcement Officer.

1.      The application for a building permit shall, in addition to all other requirements, contain a plot plan sketch showing the proposed location of the dish on the applicable lot. The sketch plan shall show the dimensions, height, color and design of the dish. In addition, the sketch shall show all natural and proposed screening of the dish.

2.      **Dimensions.** Any satellite dish antenna located within the Town of Sennett shall not exceed ten (10') feet in any dimension, height, width, depth or diameter. All measurements of height shall be taken from the base at ground level to such satellite dish's full vertical position. Measurements shall include all attachments, supports, guy wires and other equipment attached to or being a part of the antenna.

3.      **Location.** No more than one (1) satellite dish antenna (unless less than one (1) meter in diameter) shall be located on any lot. All satellite dish antennas shall be installed at ground level unless a one (1) meter diameter or less antenna is installed on the structure. No rooftop siting or mounting is permitted for antennae exceeding one (1) meter in diameter. All such antennas shall be located in the rear yard or side yard of the owner's property

at least ten (10') feet from the side and rear lot lines or at a distance equal to the height of the antenna plus six (6') feet, whichever is greater. When measuring side and rear setbacks, all cables, guy wires or other supports shall constitute a part of the antenna. The natural grade of the land may not be altered in any manner so as to provide a greater elevation for the satellite dish antenna.

4. **Screening.** The owner of any satellite dish antenna shall install screening to prevent the dish from being visible from roadways or neighboring residences, insofar as is reasonably practical, without materially impairing or interfering with reception. Screening may include natural and existing screening such as trees or residences.

5. **Standards.**

a. All installations shall be in compliance with the manufacturer's instructions and erected in a good and workmanlike manner.

b. All satellite dish antennas and the construction and installation thereof shall conform to applicable electrical, fire prevention and building codes.

c. All satellite dish antennas shall meet manufacturer's specifications, be of noncombustible and corrosive-resistant material and be erected in a secure, wind-resistant manner.

D. **Special Permit.** In the event that an owner can demonstrate that the regulations set forth herein pertaining to the location and screening of satellite dish antennas materially prevents or impairs reception of satellite services, that owner may apply to the ZBA for a special permit in accordance with the this Law. In such an event, the applicant must demonstrate the following:

1. The satellite dish antenna cannot be located in any other location on the owner's lot in compliance with this section so that reception of signal is possible.

2. The location applied for in the special permit request is the minimum deviation from this section needed in order to obtain reception of a signal.

3. The applicant cannot receive a suitable signal with an exempt satellite dish antenna in a more visible or unscreened location.

4. Alternative measures taken to minimize the visual impact to neighbors and the public of the proposed satellite dish antenna. In addition to other relevant factors, the ZBA shall consider the color, height, geographic restrictions, size of the lot and density of the neighborhood in each instance.

E. **Exemptions.** The following satellite dish antennas shall be exempt from the operation of this section:

1. Satellite dish antennas erected prior to the enactment of this section.
2. Satellite dish antennas measuring less than a maximum of six (6') feet in diameter.

**ARTICLE XI**  
**REGULATIONS REGARDING POWER GENERATING WINDMILLS AS ON-SITE**  
**USE WIND ENERGY CONVERSION SYSTEMS**

**Section 1100      On-Site Use Wind Energy Conversion Systems.**

A.     **Intent and Purpose.** The Town of Sennett through these regulations seeks to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. The Town of Sennett recognizes that wind energy is an abundant, renewable, nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. It is therefore the intent and purpose of these regulations to balance the encouragement of this renewable resource with any impacts such use may have on health, welfare and safety to the community and preserving and protecting the aesthetic qualities of the Town of Sennett.

These regulations relate to small or on-site use wind energy conversion systems and do not address large-scale wind turbines or wind farms which are typically intended to sell energy directly to power companies or retail users. Non-small wind energy systems shall require a use variance.

B.     **Permits Required.** No person, firm or corporation, or other entity being the owner or occupant of any land or premises within the Town of Sennett shall use or permit the use of land or premises for the construction of a tower for on-site use wind energy deriving purposes without obtaining a special use permit issued by the ZBA and a site plan approval issued by the Planning Board as hereinafter provided.

C.     **Special Use Permit.**

1.     In addition to the criteria established pursuant to Article XV, the following criteria are hereby established for purposes of granting a special use permit for an on-site use wind energy conversion system under this Article XI:

a.     **Noninterference.** Individual on-site use wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.

b.     **Proximity to Radio, Television and Telephone Systems.** Individual on-site use wind energy conversion systems shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone.

c.     **Scenic View Sheds.** Individual tower facilities for on-site use wind energy conversion systems shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic view shed, as viewed from any public road, right-of-way or publicly owned land within the Town of Sennett or that extends beyond the border of the Town of Sennett. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Sennett Comprehensive Plan and/or any other current, amended and/or future officially recognized Town planning document or resource.

d. **Noise Limitations.** The level of noise produced during wind turbine operation shall not exceed fifty (50) decibels 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 to the satisfaction of the ZBA as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.

e. **Height.** It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. On-site use wind energy conversion systems shall not exceed a total height of one hundred (100') feet for single-family residential applications (less than or equal to 50 kW) and shall not exceed a total height of one hundred fifty (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.

f. **FAA Requirements.** If the proposed site is near an airport, seaplane base, or established flight zone, such wind energy conversion system must meet all Federal Aviation Administration requirements.

g. **Ground Clearance.** The minimum distance between the ground and any part of the rotor blade must be thirty (30') feet.

h. **Emergency Shutdown/Safety.** The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any wind turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. The location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.

i. **Lightning Protection.** All energy towers shall have lightning protection.

j. **Ownership.** Ownership of the wind energy conversion system must be the same as the owner of the fee interest in the real property upon which it is situated. In the event of transfer of ownership of the premises, the ownership of the wind energy conversion system must also be transferred to same or the tower must be decommissioned.

k. **Utility Service.** All power lines from the wind turbines to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes.

l. **Lighting.** No on-site use wind energy conversion systems under this provision shall be artificially lighted, unless so required by the FAA.

m. **Access Road.** To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the wind energy conversion system, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress and egress to the tower.

n. **Security/Anticlimb Device.** The design of each device shall not allow for climbing by the public for a minimum height of fifteen (15') feet from the ground.

o. **Decommissioning.** The applicant shall submit to the ZBA (with a copy to the Planning Board) a letter of intent committing the owner, and his or her successors-in-interest, to notify the Code Enforcement Officer within thirty (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 Code Enforcement Officer] prior to the issuance of a building permit. The owner shall remove the obsolete or unused wind turbines and accessory structures within one (1) 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 (6) 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.

p. **Setbacks.** Wind energy conversion systems shall comply with all setbacks within the affected district. However, in addition, all on-site use wind energy conversion systems shall be setback a distance equal to the height of the tower plus blade length plus an additional twenty-five (25') feet from all lot 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.

2. **Public Hearing.** No action shall be taken by the ZBA to issue a special use permit or by the Planning Board to issue site plan approval, nor the ZBA to grant a use or area variance in relation to an application for an on-site use wind energy conversion system until after public notice and public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town of Sennett at least five (5) days before the date set for such public hearing(s) and written notice mailed to the applicant or his agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within five hundred (500') feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing by mail at least ten (10) days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least seven (7) days prior to such hearing, the applicant shall file with the applicable board his/her affidavit of verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.

3. **Waiver.** The ZBA may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein. Relief from all other requirements must be made by way of area or use variance from the ZBA.

D. **Site Plan Review.**

1. The following submission requirements must be observed regarding a site plan application. The Planning Board may require any of the requirements of Article VI as part of the submission:

a. A completed application form as supplied by the Town of Sennett for site plan approval for an on-site use wind energy conversion system.

b. Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.

c. A plot plan and development plan drawn in sufficient detail, as prepared by a licensed engineer or surveyor, clearly describing:

(1) Lot lines and physical dimensions of the proposed site, including contours at five (5') foot intervals;

(2) Location, approximate dimensions and types of all existing structures and uses on the site;

(3) Location and elevation of the proposed on-site use wind energy conversion system;

(4) Location of all existing aboveground utility lines and other on-site use wind energy conversion systems within twelve hundred (1,200') linear feet of the site;

(5) Location and size of structures or trees above thirty-five (35') feet within a five hundred (500') foot radius of the proposed on-site use wind energy conversion system;



- (6) Where applicable, the location of all transmission facilities proposed for installation;
- (7) Location of all roads and other service structures proposed as part of the installation;
- (8) Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material;
- (9) Soil type at construction site.

d. **Yard Placement.** All wind energy conversion systems shall be located and placed in rear yards and upon yards in an appropriate manner to accomplish the goals and criteria as hereinafter provided.

e. **Color.** Neutral paint colors (grays) may be required to achieve visual harmony with the surrounding area.

f. Applications shall demonstrate that there will be no adverse impact on migratory bird patterns.

g. In no event shall more than one (1) on-site use wind energy conversion system be granted for a residential lot, unless a variance is obtained from the ZBA.

h. All applications shall be accompanied by a full environmental assessment form, including a visual impact analysis. The following additional material may be required by the Planning Board:

(1) A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. Scaled use shall depict a three (3) mile radius as not smaller than two point seven (2.7") inches, and the base map shall be a published topographic map showing cultural features.

(2) No fewer than four (4) color photos taken from locations within a three (3) mile radius from the proposed location, as selected by the Planning Board and computer enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.

2. **Site Plan Review Criteria.** In addition to the above, no site plan shall be approved unless the Planning Board determines that the proposed on-site use wind energy conversion system complies with the following:

a. That the use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

(1) The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

- (2) That there be reasonable compatibility on all respects with any structure or use in the neighborhood, actual or permitted, which may be directly substantially affected;
- (3) That there should not be any unreasonable detriment to any structure or use, actual or permitted, in the neighborhood; and
- (4) That there be a reasonable provision for open space, yards and recreation areas appropriate to the structure and use.

E. **Compliance with Uniform Building Code.**

1. Building permit applications shall be accompanied by standard drawings of structural components of the on-site use wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

2. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the seismic and structural design provisions of the New York State Fire Prevention and Building Code.

F. **Compliance with State, Local and National Electric Codes.**

1. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the standards of the National Electric Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms to good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

2. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.

G. **Guy Wires.** Anchor points for guy wires for the on-site use wind energy conversion system tower shall be located within lot lines and not on or across any aboveground electric transmission distribution lines.

H. **Insurance.** The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the on-site use wind energy conversion system at all times. Said policy shall provide a minimum of Three Hundred Thousand (\$300,000) Dollars property and personal liability coverage.

I. **Inspections.** The Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Code Enforcement Officer or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

J. **Districts Where Allowed.** Subject to the issuance of site plan approval, and a special use permit, wind energy conversion systems are allowed in all zoning districts in the Town.

K. **Power to Impose Conditions.** In granting any site plan approval, special use permit or variance for an on-site use wind energy conversion system, the ZBA or Planning Board, as the case may be, may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts to the proposed use on neighboring properties.

L. **Fees.** Fees for applications and permits under this Article shall be established by resolution of the Town Board of the Town of Sennett.

M. **Waiver.** The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

## **ARTICLE XII PORTABLE STORAGE STRUCTURES**

**Section 1200** The use of Portable Storage Structures are allowed pursuant to the following conditions:

- A. There must be no more than one (1) Portable Storage Structure per parcel.
- B. No Portable Storage Structure shall exceed ten (10) feet in width, twenty (20') feet length or ten (10') feet in height.
- C. A Portable Storage Structure must not remain at a property in any residential zoning district (R, A/R, H-L Overlay) in excess of ninety (90) consecutive days, and must not be placed at any one property in a residential zoning district in excess of ninety (90) days in any calendar year. Portable Storage Structures shall be allowed as an accessory structure in all other zoning districts.
- D. No Portable Storage Structure shall be placed within five (5') feet of any lot line.
- E. No Portable Storage Structure shall be placed within five (5') feet of a wall of any building.

**Section 1201** **Exemptions.** The use of Portable Storage Structure shall not be subject to the conditions set forth in Section 1200, in the following circumstances:

- A. The use of Portable Storage Structure associated with an active construction site where a building permit has been issued, provided that all Portable Storage Structures shall be removed from the site within fourteen (14) days following the end of construction.

B. The use of any Portable Storage Structure associated with active cleanup efforts or temporary storage following any natural disaster or emergency directly affecting the property where such Portable Storage Structure is used.

## **ARTICLE XIII NONCONFORMITIES**

### **Section 1300     Purpose.**

A. This Article regulates and limits the continued existence of uses, structures or other improvements established prior to the effective date of this Law that do not conform to the regulations of this Law applicable in the zoning districts in which such nonconformities are located.

B. The zoning districts established by this Law are designed to guide the future use of the Town's land by encouraging the development of desirable residential, commercial and industrial uses with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare.

C. The continued existence of certain nonconformities is frequently inconsistent with the Comprehensive Plan, and thus the gradual elimination of such nonconformities is desirable.

D. The regulations of this Article are intended to restrict further investments that would make nonconformities more permanent in their location in inappropriate districts or locations as well as to discourage the reuse of those other nonconformities that do not contribute to a neighborhood and are inconsistent with the goals of the Comprehensive Plan. It is the intent of these regulations to discourage nonconformities and ultimately allow their discontinuance, particularly nonresidential uses existing in residential districts.

### **Section 1301     Definitions.**

A. **Nonconforming Structure or Lot.** A structure or lot that does not conform to a dimensional regulation prescribed by this Law for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was legally in existence at the effective date of this Law and was lawful at the time it was established.

B. **Nonconforming Use.** A use of a building or lot that does not conform to a use regulation prescribed by this Law for the district in which it is located, but which was legally in existence at the effective date of this Law and was lawful at the time it was established.

**Section 1302     Continuation.** The lawful use of any structure or land legally existing at the effective time of this Zoning Law of the Town of Sennett may be continued although such use does not conform with the provisions of this Law except as otherwise provided in this Article.

**Section 1303     Alteration or Extension.** A nonconforming use may not be enlarged, moved or expanded, increased in intensity nor may a nonconforming use be changed except to a conforming use. Such prohibited activity shall include, but not be limited to:

A. Expansion of such use to any structure or land area.

B. Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such legal nonconforming use on the effective date of this Law, or any amendment to this Law, which causes such use to become nonconforming.

C. An extension or change of the hours of operation of such use beyond the previously existing legal hours of operation at the adoption of this Law.

**Section 1304**     **Damage, Destruction and Restoration of Non-Conforming Structures.** No structure damaged by fire or other causes to the extent of more than fifty (50%) percent of its fair market value shall be repaired, reconstructed, or used except in conformity with the regulations of this Law. Structures with damage to the extent of fifty (50%) percent or less of the fair market value may be reconstructed, repaired or used for the same nonconforming use subject to the following provisions:

A. The reconstructed structure shall not exceed the height, area, or volume of the damaged structure.

B. Reconstruction shall begin within six (6) months from the date of damage and shall be carried on without interruption (except where there is an active and pending insurance claim). The burden of proof of such claim shall be on the Property Owner.

C. The determination of the extent of damage as it is related to the associated cost for repair and replacement shall be made and shall be in the sole reasonable discretion of the Code Enforcement Officer. The Code Enforcement Officer may consult with relevant professionals to make this determination.

**Section 1305**     **Abandonment or Discontinuance.**

A. When the active operation of a nonconforming use is discontinued or abandoned for a period of one (1) year, regardless of any intent to resume or not to abandon the use, the use shall not be reestablished or resumed. The active operation of a use shall be the typical or normal activities associated with the use. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such structure is located.

B. For the purpose of this section, the following circumstances, which shall not be exclusive, shall contribute towards evidence of discontinuance or abandonment of a use:

1. Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours); or

2. Failure to maintain equipment, supplies or stock-in-trade which would be used for the active operation of the use; or

3. Failure to maintain utilities which would be used for the active operation of the use; or

4. Failure to pay taxes, including, but not limited to, sales taxes, workers' compensation taxes, property taxes, corporate taxes, etc., that would be required for the active operation of the use; or

5. Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use.

C. The legality of one or more nonconforming uses located within a property shall not affect the determination that another nonconforming use on the same property has been discontinued or abandoned.

D. An owner or operator shall have the opportunity to submit any evidence or proof that the property and its use has not been discontinued or abandoned. The Code Enforcement Officer shall then issue a letter of determination based upon the evidence of any of the above circumstances or other relevant evidence that a nonconformity has continued, been discontinued or abandoned.

**Section 1306 Displacement Prohibited.** No nonconforming use shall be extended to displace a conforming use.

**Section 1307 District Changes.** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

**Section 1308 Nonconforming Structures.**

A. **Continuance.** Any nonconforming structure which is devoted to a use which is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions in this section.

B. **Repair or Alterations.** Any nonconforming structure may be maintained, repaired or altered, provided no additional nonconformity is created or the degree of the existing nonconformity is not increased.

C. **Damage or Destruction.**

1. In the event that any part of a nonconforming structure which contributed to its nonconformity is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the regulations of the zoning district in which it is located. This provision shall not apply to preexisting residentially used structures, which shall be allowed to be repaired and restored only to the extent of the prior nonconformance, such that no additional nonconformity is created. Such repair and restoration shall commence within one (1) year of the damage or destruction.

2. When such a part of a nonconforming structure is damaged or destroyed, by any means, to the extent of fifty percent (50%) or less of the cost of replacement of such part new, no repairs or restoration except in conformity with the applicable zoning district regulations shall be made unless a zoning certificate is obtained and restoration is actually begun within six (6) months after the date of such partial destruction and completed within one (1) year.

3. The determination of the extent of damage as it relates to the associated cost for repair and replacement shall be made and shall be in the sole reasonable discretion of the Codes Enforcement Officer. The Code Enforcement Officer may consult with relevant professionals to make this determination.

D. **Moving.** No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 1309 Zoning Permits Required.** Zoning permits shall be issued by the Code Enforcement Officer for all lawful nonconforming uses existing at the effective date of this Law. The zoning permit shall include a statement that use is nonconforming and shall list the specific

conditions under which said use may continue. It shall be signed by both the Code Enforcement Officer and the owner of the property.

**Section 1310** **Nonconforming Lots of Record.** (See Section 702).

**Section 1311** **Access.** A conforming use in one district shall not gain access to that use through another district where that use is nonconforming other than by public streets or roads.

**Section 1312** **Legal Nonconforming Residential Use.** These rules relating to nonconformity shall not apply to expansion or renovation of residential uses that have been made nonconforming by the adoption of the Zoning Law.

#### **ARTICLE XIV ADMINISTRATION**

**Section 1400** **Code Enforcement Officer - Duties and Powers.** The provisions of this Law shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board. The Code Enforcement Officer (who may also be known as the Zoning Enforcement Officer) shall have the following powers and duties:

A. To submit an annual report to the Town Board of the Town of Sennett listing all applications received, inspections made, referrals and action taken on each. Copies of this report shall be transmitted to the ZBA and Planning Board at the same time.

B. To cause any plans, structures or premises to be examined or inspected to determine compliance with the provisions of this Law and other applicable state and local laws and regulations. In the fulfillment of these duties, he or she shall be authorized to enter any premises or structure at a reasonable time and upon reasonable notice (pursuant to law and consistent with constitutional safeguards and any requisite warrant requirement) to determine whether or not the same is in violation of this Law and may impose such reasonable conditions, including but not limited to the posting of securities, as may be deemed necessary to ensure compliance.

C. To provide the ZBA, in writing, with all facts pertaining to the refusal to issue development permits and certificates when such information is requested by the Board.

D. For denied development permits to provide, in writing, the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

E. To notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it.

F. To order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; to order stop work or discontinuance of any illegal work being done, or to take any other action authorized by this Law to ensure compliance with or to prevent violation of its provisions.

G. On the serving of this notice by the Code Enforcement Officer to the owner of any property in violation of any of the provisions of this Law, the Certificate of Compliance for such structure or use shall be held null and void. A new Certificate of Compliance shall be required for any further use of such structure or premises.

H. To issue appearance tickets pursuant to authorized sections of the New York State Criminal Procedure Law and to exercise such other powers and duties authorized by state law.

I. Receive and examine applications for Zoning/Building Permits for initial completeness and to refer application to the Planning Board for review and recommendation, when deemed advisable.

J. Issue Zoning/Building Permits after approval and certification of occupancy when there is compliance with the provisions of this Law and with other Town local laws provided, however, the issuance of a Zoning/Building Permit shall not be deemed a waiver of the requirements of any other Town Law or local law.

K. Receive applications for special permits, examine for initial completeness and forward these applications upon completion to the ZBA for action thereon.

L. Following refusal of a permit, examine them for initial completeness, to receive applications for zoning variances and appeals from alleged errors of the Code Enforcement Officer, and forward these applications, upon completion to the ZBA for action.

M. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Law.

N. Issue stop, cease, and desist orders, and order in writing correction of all conditions found to be in violation of the provisions of this Law. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Code Enforcement Officer to be a violation of the terms of this Law.

O. With the approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct, or abate such violation, so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

P. Revoke by order, any Zoning Permit issued under a mistake of fact or issued contrary to the law or to the provisions of this Law.

Q. Maintain a map showing the correct zoning classification of all land.

R. Upon the request of the Town Board, the Planning Board or the ZBA, present to such bodies facts, records, or reports which they may request to assist them in making decisions.

**Section 1401**     **Zoning Permits.**<sup>3</sup> As used in this Law, the term “zoning permit” shall mean the document issued by the Code Enforcement Officer indicating that an owner, tenant, vendee under contract of sale, or authorized has met all required Town zoning regulations for a proposed project or proposed change in uses on a particular parcel.

A. No structure shall be erected, constructed, extended, reconstructed or moved; and no land or building changed in use, until a Zoning Permit has been secured from the Code Enforcement Officer. Upon completion of changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Code Enforcement Officer of such completion.

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<sup>3</sup> No part of this section shall relieve a property owner from the requirements of obtaining necessary building permits pursuant to NYS Fire Prevention and Building Code.



B. No permit shall be considered as complete or as permanently effective until the Code Enforcement Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Law.

C. Zoning Permits shall not be required for: general maintenance work, painting, clearing woodlands, tilling the soil, or landscaping. However, all such activities shall conform with the requirements of this Law.

D. Zoning Permits shall be issued with a two (2) year life, provided however, that if the work is not commenced within six (6) months after the issuance of the Zoning Permit, the permit shall automatically expire and a new permit shall be required before such work or change in uses commences.

**Section 1402      Special Provisions for Issuance of Zoning Permits in Areas Designated as Flood Hazard Areas.**

A. The Code Enforcement Officer when reviewing applications for Zoning Permits in areas designated as flood hazard areas of any district, including plans and specifications for proposed construction, shall in addition to the regular duties, review all Zoning Permit applications to determine if the proposed construction is consistent with the need to minimize flood damage.

B. The Code Enforcement Officer shall review all Zoning Permit applications to determine if the site of the proposed construction is reasonably safe from flooding and to make recommendations for construction in all areas designated as flood hazard areas.

C. The Code Enforcement Officer in reviewing all applications for construction in areas designated as flood hazard areas within the Town shall require that any such proposed construction shall:

1. Be designed and anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding.
2. Use construction materials and utility equipment that are resistant to flood damage.
3. Use construction methods and practices that will minimize flood damage.
4. Provide adequate drainage in order to reduce exposure to flood hazard.
5. Locate public utilities and facilities on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage, such utilities and facilities including sewer, gas, electrical and water systems.

**Section 1403      Certification of Occupancy.** No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Code Enforcement Officer stating that the buildings or proposed use thereof complies with the provisions of this Law and the other laws of the Town of Sennett.

**Section 1404      Application Requirements for Zoning Permits.**

A. All applications for Zoning Permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent, on a form supplied by the Town, and shall be filed with the Code Enforcement Officer. The application shall:

1. Include a statement as to the proposed use of the building or land.
2. Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structure, or uses and any existing buildings in relation to property and street lines.
3. Include the number, location and design of parking spaces and loading spaces if applicable.
4. Include the size, dimensions, location and methods of illumination for signs, if applicable.
5. Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Law.

B. A permit for any new use or construction which will involve the onsite disposal of sewage or waste, or a change in use or an alteration which will result in an increased volume of sewage or waste to be disposed of on site, or which will require a new or modified water supply, shall not be issued until a certificate of approval has been issued by the Cayuga County Department of Health.

**Section 1405      Issuance of Zoning Permits.** Zoning Permits shall be granted or refused within fifteen (15) days after the completed written application has been filed with the Code Enforcement Officer except as provided elsewhere in this Law. Upon completion of the activity authorized by any Zoning Permit, the holder of such permit shall notify the Code Enforcement Officer of such completion.

All applications with accompanying plans and documents shall become, and be preserved, as a public record, subject to the disposition of the Town Board.

**Section 1406      Fees.** The applicant, at the time of application for a Zoning Permit, shall pay to the Town Clerk the fee for said permit as established by the Town Board. The Town Board may, from time to time, amend the fee schedule by resolution.

**ARTICLE XV  
ZONING BOARD OF APPEALS AND TOWN BOARD**

**Section 1500      Establishment of Zoning Board of Appeals.** Pursuant to the provisions of Sec. 267 of the Town Law, there is hereby established a Zoning Board of Appeals (ZBA) for the Town of Sennett appointed by the Town Board of the Town of Sennett.

The ZBA shall have all the powers and duties prescribed by law in connection with appeals to review any order, decision, determination or interpretation made by an administrative official, generally the Code Enforcement Officer.

**Section 1501      Membership, Terms of Office.**

A.     **Members.** The ZBA shall consist of five (5) members each appointed by the Town Board to a term of five years such that the term of one (1) member shall expire each year.

B.     **Term.** Successor Board members shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur, the Town Board shall appoint a successor who shall serve for the unexpired portion of the term of his predecessor.

C.     **Alternates.** In addition, the Town Board may appoint two (2) alternate members to the ZBA. Such members, if appointed, serve when a regular member(s) is absent or unable to participate in a hearing before the ZBA. An alternate members shall be appointed for a term of one (1) year.

D.     **Chairperson and Vice-Chairperson.** The Town Board shall appoint one of the members of the ZBA as Chairperson to preside at all meetings and hearings and to fulfill the customary functions of that office. The Chairperson shall annually appoint one of his members as Vice-Chairperson. The Chairperson shall decide on all points of order and procedure, subject to this Article XV. The Chairperson shall appoint any committees found necessary to carry out the business of the ZBA. The Chairperson may administer oaths and compel the attendance of witnesses as necessary to carry out the business of the ZBA. The Chairperson's signature shall be the official signature of the ZBA and shall appear on all decisions as directed by the ZBA. In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson and shall have all the powers of the Chairperson.

The Vice-Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Board.

E.     All members of the ZBA and alternates shall be residents of the Town of Sennett and shall not be elected or employees of the Town or any of its agencies or departments.

F.     All members of the ZBA and alternates may serve with compensation as determined by the Town Board and shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.

G.     All members of the ZBA (plus the alternates) shall comply with the requirements of the Town Board relevant to mandatory training.

H.     No members of the ZBA shall participate in the hearing or disposition of any matter in which he or she has an economic interest. Any conflict of interest prohibited by Article 18 of the General Municipal Law shall disqualify a member.

I.     **Secretary.** A secretary of the ZBA shall be designated by the Town Board. The secretary, subject to the Chairperson, shall keep minutes of all ZBA 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 all ZBA official actions.

**Section 1502      Standard of Conduct.**

A.      Members of the ZBA are duly appointed public officers of the Town of Sennett charged with lawfully and appropriately executing the duties conferred upon the ZBA by this Law and the laws of the State of New York. It is expected that in the performance of these duties and functions each member will act with honesty and integrity and generally conduct himself or herself in a manner which generates community trust and confidence in the ZBA and enhances the role and image of the ZBA and local government generally. To that end, in carrying out his or her duties and the functions of the ZBA each member shall:

1.      Act honestly and with reasonable care and exercise due diligence in the performance and discharge of his or her official functions and duties; and
2.      At all times, seek to advance the common good of the Town and act in the best interest of the Town in such a way that the credibility and integrity of the Town is not compromised; and
3.      Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability; and
4.      Perform the functions of office in good faith, honestly and in a transparent manner; and
5.      Show respect and courtesy at all times to fellow members of the ZBA, Town employees, members of the public, residents of the Town and applicants appearing before the ZBA; and
6.      Show respect for Town property and refrain from damaging Town property; and
7.      Conduct himself or herself in a manner that does not endanger fellow members of the ZBA, Town employees, members of the public, residents of the Town and applicants appearing before the ZBA; and
8.      Refrain from engaging in fighting or other physical altercations with fellow members of the ZBA, Town employees, members of the public, residents of the Town and applicants appearing before the ZBA; and
9.      Refrain from engaging in sexual, racial, religious or other harassment or violence directed towards fellow members of the ZBA, Town employees, members of the public, residents of the Town and applicants appearing before the ZBA; and
10.     Refrain from the use of inappropriate or offensive language directed towards fellow members of the ZBA, Town employees, members of the public, resident of the Town and applicants appearing before the ZBA.

B.      **Removal for Cause.** Failure to comply with the Standard of Conduct set forth at Section 1502 above shall constitute grounds for removal of the ZBA members for cause subject to the following procedures:

1.      Notice. Such member shall be mailed a written notice specifying the nature of such member's violation of Subparagraph A above.

2. Public Hearing. Such notice shall specify a date, not less than ten (10) nor more than thirty (30) days from the date of mailing such notice, when the Town Board shall convene and hold a public hearing on whether or not such member should be penalized in accordance with Subsection 5 below. Such notice shall also specify the time and place of such hearing.

3. Public Notice. Public notice of such hearing shall be published in the official newspaper of the date, time and location at least ten (10) days prior to the date of the public hearing.

4. Conduct of Hearing. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to retain an attorney at the member's own expense, present evidence, call witnesses to refute the charges, and cross-examine witnesses. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing together with specific findings of the Town Board with respect to each charge against such member. A copy of such decision and such findings shall be filed in the Office of the Town Clerk and mailed to the member.

5. Action by the Town Board. Following the hearing and upon a finding that such member has violated the provisions of Subparagraph A above, the Town Board may:

a. Remove such member from the ZBA; or

b. Issue a written reprimand to such member without removing such member from such board; or

c. If the Town Board shall find that the reasons for violating the provision of Subparagraph A above are excusable for good and sufficient cause, the Town Board may elect to take no action.

### **Section 1503      Meetings.**

A. **Regular Meetings.** All meetings of the ZBA shall be held at the call of the Chairperson and at such other times as the ZBA shall determine by providing written notice as required by law.

B. **Annual Meetings.** The annual organizational meeting of the ZBA shall be the first regular meeting of the year called by the Chairperson.

C. **Proceedings.** The order of business at regular meetings of the ZBA shall be as follows: (1) roll call; (2) reading and approval of minutes of preceding meeting; (3) public hearing (when scheduled); (4) action on holdover matters; (5) new business; (6) adjournment.

D. **New Business.** No new matter will be considered by the ZBA unless a fully completed and appropriate application for said matter is received by the Code Enforcement Officer on behalf of the ZBA on the form provided for that purpose at least fourteen (14) days prior to the date of the meeting at which it is to be considered.

E. **Meeting Agenda.** The Code Enforcement Officer shall be responsible, at the direction of the ZBA, for providing any applicant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing said forms. All information required thereon shall be complete before an application is considered filed. The Chairperson shall review all applications so received by the Code Enforcement Officer for completeness. If

the application is in proper form for consideration, he or she shall place it upon the next meeting agenda which he or she shall provide to all members at least seven (7) days prior to the meeting. The Chairperson shall also notify the applicant that the matter has been placed on said agenda. If said application is incomplete, the Chairperson shall return it to the application within five (5) days of receipt with instructions as to remedying the same. The Chairperson shall then report to the ZBA, at the next meeting, as to all incomplete applications not on the agenda.

F. **Code Enforcement Officer.** At each meeting of the ZBA, the Code Enforcement Officer shall be present to report, if the Chairperson deems necessary, on the nature of any matter on the agenda.

G. **Executive Meetings.** All meetings of the ZBA shall comply with the requirements of the Open Meetings Law, Section 105 of the Public Officers Law.

**Section 1504 Removal.**

A. Any member of the ZBA may be removed for cause by the Town Board at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public meeting.

B. Cause for removal of a member may include one or more of the following:

1. any undisclosed or unlawful conflict of interest.
2. any violation of the rules, codes, or ordinances applicable to the member's performance of his or her duties.
3. any unwillingness or inability to carry out his or her duties in a prompt, conscientious and competent manner.
4. members may be removed from the ZBA if they miss thirty-three percent (33%) of the meetings during one (1) calendar year, miss three (3) consecutive meetings unexcused or do not meet their mandatory training requirements set forth in Town of Sennett Local Law No. 2-2014 titled "A Local Law Establishing Training Requirements for Members and Alternate Members of the Town of Sennett Planning Board and Zoning Board of Appeals".

**Section 1505 Public Record.**

A. The ZBA shall provide for the keeping of the record of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact.

B. The Town Clerk shall provide for keeping a file of all records of the ZBA, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

**Section 1506 Authority.** The ZBA shall have the following jurisdiction and authority:

- A. Hear and decide appeals from, and review orders, decisions or determinations made by the Code Enforcement Officer.
- B. Approve or deny requests for variances from the requirements of this Law.
- C. Hear, review and decide applications for special use permit approval.

D. Reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

E. Hear requests for variances as part of an ongoing site plan review of the Planning Board of the Town of Sennett necessary for the Planning Board to complete review and generate a decision. **Note:** this is the only request that can be addressed by the ZBA without prior denial of a request by the Code Enforcement Officer.

**Section 1507 Appeals.** Appeals to the ZBA may be taken by any person or Town official aggrieved or affected by any provision of this Law or by any decision including a denial for permit or any order to stop, cease, or desist issued by the Code Enforcement Officer in enforcing the provisions of this Law.

**Section 1508 Appeals Process.**

A. An appeal shall be made by filing same with the Code Enforcement Officer within sixty (60) days after the date of the filing of the Code Enforcement Officer's written decision.

B. All appeals to the ZBA shall be in writing on standard forms as authorized by the ZBA, must refer to the specific section/sections of this law being questioned, and must be accompanied by a payment to the Town of Sennett in accordance with a fee schedule adopted by resolution of the Town Board of the Town of Sennett.

C. All appeals shall include names and addresses of all adjoining property owners including those across public roads from the subject property.

D. All appeals shall be complete and contain sufficient information to establish a foundation for the appeal including reference to the criteria used by the ZBA in establishing its decision.

E. Criteria used by the ZBA shall be presented to each applicant at the time of original request for appeal.

F. **Setting hearing.** For all matters properly brought before the ZBA for which a public hearing is required, the body charged with conducting the hearing shall, upon receipt of a completed application, select a reasonable time and place for such a hearing.

G. **Official Notice.** Where published notice is required, such notice shall be placed in the official paper of the Town of Sennett or a newspaper of general circulation in the Town at least once, not less than five (5) days before the date of the hearing.

H. **Expense of Notice.** The cost of such notice or notices shall be borne by the applicant, as the case may be.

I. **Additional Notice.** Notwithstanding the specific notification rules contained in this section, each Board may, in its own discretion, as the case warrants, provide greater notice in the interest of fuller public participation.

J. **Testimony of Applicants.** All applicants, and applicants only, may be sworn in.

K. **Submission Deadlines.** All Hearing material, application, supporting documents and original permit requests must be delivered to each ZBA member no later than two (2) weeks prior to the assigned date of the applicants Hearing.

L. **Pre-Application Meeting.** Each applicant will be offered the opportunity to meet with the Code Enforcement Officer and a member of the ZBA to assist in interpreting the requirements of an acceptable application and explaining the criteria facing the Board in their decision making process. These meetings will not compromise the contents of subsection **K** above.

M. **County Referral.** The ZBA shall refer variance and special permit applications to the Cayuga County Planning Board when required under New York State General Municipal Law unless exempt from this requirement by intermunicipal agreement between the Cayuga County Planning Board and the Town of Sennett.

### **Section 1509      Types of Appeals.**

A. **Appeal from Alleged Error/Interpretation.** An appeal from an alleged error of the Code Enforcement Officer shall specify the alleged error, the Section or Sections of this Law to which it pertains and the interpretation thereof that is requested.

B. **Request for Variance.** A variance is permission granted by the ZBA so that property may be used in a manner not otherwise allowed by the zoning as of right or by way of Special Use Permit. It is only the ZBA that has the power to provide for such exceptions from the requirements of the zoning law.

An appeal for a variance from the strict application of this Law shall include the denied permit application plus all information referenced in Section 1508.

Variances to be considered refer to dimensional requirements (area) and land use requirements (use).

C. **Request for Special Use Permit.** An application for a Special Use Permit shall include an application for a Building Permit with all required information and a statement including supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Law including all of Section 1508.

1. The ZBA shall hear and decide upon application for Special Use Permits for any uses for which this law requires the obtaining of a Special Use Permit from the ZBA.

2. Applicants bear the burden of proof in establishing the right to a Special Use Permit.

3. The ZBA shall grant a Special Use Permit when it finds adequate evidence that a proposed use submitted for Special Use Permit will meet all of the following general requirements and standards listed for the proposed use. The ZBA shall, among other things, require that any proposed specially permitted use and location be:

a. In the best interest of the Town of Sennett, the convenience of the community, the public welfare, and shall be an acceptable addition to the neighborhood.



b. Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing intended character of the general vicinity.

c. In conformance with all applicable requirements of this law.

d. Suitable in terms of effect on street or highway traffic safety with adequate access arrangements.

4. In granting a Special Use Permit the ZBA may impose whatever conditions regarding layout circulation and performance it deems necessary to insure the objectives of this law are met. These conditions include, but are not limited to the following as they may relate to lot size and dimensions, height, access, parking spaces, lighting, sign, fencing, screening, landscaping and open space.

Before granting a Special Use Permit, the ZBA shall make specific written findings that the proposed major project:

a. Will comply with all provisions and requirements of this Law and of all other Town of Sennett local laws and regulations and will be consistent with the purposes of the land use district in which it is located, with the Comprehensive Plan and with the purposes of this Law.

b. Will not result in the release of harmful substances or any other nuisances, nor cause excessive noise, dust, odors, solid waste or glare.

c. Will not cause undue traffic congestion, unduly impair pedestrian safety or overload existing roads, considering their current width, surfacing and condition.

d. Will have appropriate parking and be accessible to fire, police and other emergency vehicles.

e. Will not overload any public water, drainage or sewer system or any other municipal facility or service, including schools.

f. Will not degrade any natural resource, ecosystem or historic resource.

g. Will be suitable to such conditions on operation, design and layout of structures and provision of screening, buffer areas and off-site improvements as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.

h. Will be consistent with the community's goals.

i. Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right.

**Section 1510 Voting Procedure.**

A. **Quorum.** As to matters before the ZBA, no business shall be transacted by the ZBA without three (3) members of the ZBA being present. The concurring vote of three (3) members shall be necessary for any action of the ZBA subject to State law.

B. **Voting.** A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard, provided he or she has fully informed himself or herself of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

C. **Roll Call Vote.** All voting of the ZBA shall be by roll call vote and duly recorded as such.

D. **Compliance with Open Meetings Law.** All meetings and hearings of the ZBA shall be open to the public.

**Section 1511 Decisions.**

A. **Variances.** All variance decisions of the ZBA will be based on review of the Comprehensive Plan of the Town of Sennett, the New York State Environmental Quality Review Act (SEQR) 6NYCRR Part 617 and criteria found in New York State Law (as amended) established for the granting of variances. Criteria listed as follows.

1. **Area Variance Criteria.**

a. The ZBA shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

b. In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the ZBA shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of an area variance.

c. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

2. **Use Variance Criteria.**

a. The ZBA, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

b. No such use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the

applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

c. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. **Decisions Supported by Evidence.** The ZBA may rely on the personal knowledge of its members, testimony at the public hearing, or its inspections of the property and on any reports available to it. Every decision of the ZBA shall be by resolution and shall expressly set forth any limitations or conditions imposed or any relief approved or work or use authorized.

C. **Findings and Final Decision.** Decisions of the ZBA shall first present findings and conclusions at a meeting open to the public and shall state any special circumstances or conditions. Decisions shall be final upon adoption of the minutes and/or resolution of the ZBA a majority of the members and the filing of the minutes and/or resolution with the office of the Town Clerk of the Town of Sennett whichever occurs first.

D. **Failure to Act.** In any case where this Law provides that the failure of the ZBA to act within a fixed period shall be deemed a denial of application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the ZBA rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision. Where no decision is made by the ZBA and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

E. **Nature of Decision.** Within five (5) business days following the final decision of the ZBA, the Town Clerk shall mail notice thereof to each person entitled to such notice and file such decision in the Office of the Town Clerk. However any failure to provide such notice or to completes such filing shall not affect such decision, nor the time upon which to take an appeal. As to other matters brought before the ZBA, the ZBA shall prepare such report as it shall deem appropriate to the subject matter.

**Section 1512 Appeal to Court.** Any person or persons, jointly or severally aggrieved by a decision of the ZBA or any officer, department, Board or Bureau of the Town of Sennett may apply to the Supreme Court for review of the decision by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk of the Town of Sennett.

**Section 1513** Fees. Appeals and applications before the ZBA shall be accompanied by a payment to the Town in accordance with a Fee Schedule adopted by resolution of the Town Board.

**Section 1514** Review by Cayuga County Planning Board. The ZBA shall refer variance and special permit applications to the Cayuga County Planning Board when required by N.Y.S. General Municipal Law.

**ARTICLE XVI  
REMEDIES, PENALTIES, SEVERABILITY  
CLAUSE, REPEALER, AND EFFECTIVE DATE.**

**Section 1600** Enforcement and Remedies. 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 Article or of any other local law, law or other regulation made under authority conferred thereby, 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 premises; and upon the failure or refusal of the proper local officer, board or body of the town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the town so to proceed, any three (3) taxpayers of the town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the town is authorized to do.

**Section 1601** Fines and Penalties.

A. For any and every violation of the provisions of this Law:

1. The owner, general agent or contractor of a building or premises where such violation has been committed or shall exist;

2. The owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist; and

3. The general agent, architect, builder, contractor, owner, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any buildings or premises in which any such violation shall exist, shall be liable on conviction thereof to a fine or penalty not exceeding **Two Hundred Fifty Dollars (\$250.00)** or by imprisonment for a period not exceeding fifteen (15) days or by both such fine and imprisonment. The imposition of one penalty for any violation, shall not excuse the violation, nor permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that such violations continue, shall constitute a separate offense. The imposition of any such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction.

B. Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

**Section 1602**      **Severability.** It is hereby declared to be the legislative intent that:

A. Should the courts declare any provision of this Law to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Law shall continue to be separately and fully effective.

B. Should the courts find the application of any provision or provisions of this Law to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole, or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be effected.

**Section 1603**      **Repealer.** The Zoning Ordinance of the Town of Sennett effective as of January 26, 1990 and all other amendments are hereby repealed. All other existing ordinances or laws, or parts of ordinances or laws in conflict with this law, to the extent of such conflict and no further are hereby repealed.

**Section 1604**      **Effective Date.** The effective date of this Law shall be October 16, 2014.

**SECTION 2.**            **SEVERABILITY**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

**SECTION 3.**            **EFFECTIVE DATE**

This Local Law shall be effective upon filing with the office of the Secretary of State.